

# **TITLE 17 ZONING**

Revised through 1.20.04

## **TABLE OF CONTENTS**

### **CHAPTER 17.02**

<b>GENERAL PROVISIONS</b> .....	1
Section 17.02.010 Purpose .....	1
Section 17.02.020 Definitions.....	1
Section 17.02.030 Designation of Districts; Subdivision of Land Permitted.....	13
Section 17.02.040 Boundaries of District and Zoning Map.....	13
Section 17.02.050 Interpretation of District Boundaries.....	14
Section 17.02.060 Administration .....	15
Section 17.02.070 Staff - Powers and Duties.....	15
Section 17.02.080 Correction of Violations.....	15
Section 17.02.090 Questions of Interpretation .....	15
Section 17.02.100 Authority of Plan Commission, Board of Zoning Appeals and Staff.....	15
Section 17.02.110 Improvement Location Permits.....	15
Section 17.02.120 Occupancy Permits.....	16
Section 17.02.130 Certificates of Zoning Compliance for New, Altered or Nonconforming Uses.....	16
Section 17.02.140 Commission to Adopt Rules of Procedure for Meetings.....	17
Section 17.02.150 Amendments-Responsibility of Council.....	17
Section 17.02.160 Procedures Governing Amendments.....	18
Section 17.02.170 Appealing Decisions of Administrators and Board of Zoning Appeals.....	19
Section 17.02.180 Territorial Jurisdiction of Chapter.....	19
Section 17.02.190 Interpretation of Title; Effect of Title on Contracts.....	19
Section 17.02.200 Zoning of Minor Essential Services and Rights-of-Way.....	19
Section 17.02.210 Performance Standards Generally.....	20
Section 17.02.220 Compliance With Title; Procedure to Zone Annexed Territory.....	20
Section 17.02.230 Complaints, Violations and Penalties.....	21

### **CHAPTER 17.04**

<b>AG AGRICULTURAL DISTRICT</b> .....	21
Section 17.04.010 Intention of District.....	21
Section 17.04.020 Permitted Uses.....	22
Section 17.04.030 Conditional Use.....	22
Section 17.04.040 Lot Size.....	23
Section 17.04.050 Setback Lines.....	23
Section 17.04.060 Height Restrictions.....	23
Section 17.04.070 Lot Coverage.....	23
Section 17.04.080 Off-Street Parking.....	23
Section 17.04.090 Signs.....	23

### **CHAPTER 17.06**

<b>RESERVED</b> .....	23
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# COLUMBUS ZONING ORDINANCE

## CHAPTER 17.08

<b>R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT .....</b>	<b>24</b>
Section 17.08.010 Intention of District.....	24
Section 17.08.020 Permitted Uses.....	24
Section 17.08.030 Conditional Use.....	24
Section 17.08.040 Connection to Water and Sewer Facilities.....	24
Section 17.08.050 Lot Size.....	24
Section 17.08.060 Setback Lines.....	25
Section 17.08.070 Height Restriction.....	25
Section 17.08.080 Lot Coverage.....	25
Section 17.08.090 Off-Street Parking.....	25
Section 17.08.100 Signs.....	25

## CHAPTER 17.10

<b>R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT .....</b>	<b>25</b>
Section 17.10.010 Intention of District.....	25
Section 17.10.020 Permitted Uses.....	25
Section 17.10.030 Conditional Use.....	25
Section 17.10.040 Connection to Water and Sewer Facilities.....	26
Section 17.10.050 Lot Size.....	26
Section 17.10.060 Setback Lines.....	26
Section 17.10.070 Height Restrictions.....	26
Section 17.10.080 Lot Coverage.....	26
Section 17.10.090 Off-Street Parking.....	26
Section 17.10.100 Signs.....	27

## CHAPTER 17.12

<b>R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT .....</b>	<b>27</b>
Section 17.12.010 Intention of District.....	27
Section 17.12.020 Permitted Uses.....	27
Section 17.12.030 Conditional Use.....	27
Section 17.12.040 Connection to Water and Sewer Facilities.....	27
Section 17.12.050 Lot Size.....	27
Section 17.12.060 Setback Lines.....	28
Section 17.12.070 Height Restrictions.....	28
Section 17.12.080 Lot Coverage.....	28
Section 17.12.090 Off-Street Parking.....	28
Section 17.12.100 Signs.....	28

## CHAPTER 17.14

<b>R-4 SINGLE-FAMILY RESIDENTIAL DISTRICT .....</b>	<b>28</b>
Section 17.14.010 Intention of District.....	28
Section 17.14.020 Permitted Uses.....	28
Section 17.14.030 Conditional Use.....	29
Section 17.14.040 Connection to Water and Sewer Facilities.....	29
Section 17.14.050 Lot Size.....	29
Section 17.14.060 Setback Lines.....	29
Section 17.14.070 Height Restrictions.....	29
Section 17.14.080 Lot Coverage.....	30
Section 17.14.090 Off-Street Parking.....	30

## COLUMBUS ZONING ORDINANCE

Section 17.14.100 Signs.....	30
<b>CHAPTER 17.16</b>	
<b>R-5 URBAN RESIDENTIAL DISTRICT.....</b>	<b>30</b>
Section 17.16.010 Intention of District.....	30
Section 17.16.020 Permitted Uses.....	30
Section 17.16.030 Conditional Use. ....	30
Section 17.16.040 Connection to Water and Sewer Facilities.....	30
Section 17.16.050 Lot or Project Size. ....	31
Section 17.16.060 Setback Lines.....	31
Section 17.16.070 Height Restrictions.....	31
Section 17.16.075 Landscaping.....	31
Section 17.16.080 Open Space. ....	31
Section 17.16.090 Floor Area.....	31
Section 17.16.100 Off-Street Parking. ....	31
Section 17.16.110 Signs. ....	31
<b>CHAPTER 17.18 R-6 MULTIFAMILY RESIDENTIAL DISTRICT.....</b>	<b>32</b>
Section 17.18.010Intention of District.....	32
Section 17.18.020 Permitted Uses.....	32
Section 17.18.030 Conditional Use.....	32
Section 17.18.040 Connection to Water and Sewer Facilities.....	32
Section 17.18.050 Lot Size.....	32
Section 17.18.060 Setback Lines.....	33
Section 17.18.070 Height Restrictions.....	33
Section 17.18.075 Landscaping.....	33
Section 17.18.080 Open Space. ....	33
Section 17.18.090 Floor Space. ....	33
Section 17.18.100 Off-Street Parking. ....	33
Section 17.18.110 Signs. ....	33
<b>CHAPTER 17.20</b>	
<b>R-7 MULTI-FAMILY RESIDENTIAL DISTRICT.....</b>	<b>33</b>
Section 17.20.010 Intention of District.....	33
Section 17.20.020 Permitted Uses.....	34
Section 17.20.030 Conditional Use.....	34
Section 17.20.040 Connection to Water and Sewer Facilities.....	34
Section 17.20.050 Lot or Project Size. ....	34
Section 17.20.060 Setback Lines.....	34
Section 17.20.070 Height Restrictions.....	35
Section 17.20.075 Landscaping.....	35
Section 17.20.080 Open Space.....	35
Section 17.20.090 Floor Area.....	35
Section 17.20.100 Off-Street Parking. ....	35
Section 17.20.110 Signs. ....	35
<b>CHAPTER 17.21</b>	
<b>R-8 MANUFACTURED HOME DEVELOPMENT DISTRICT.....</b>	<b>35</b>
Section 17.21.010 Intention of District.....	35
Section 17.21.020 Permitted Uses.....	35

## COLUMBUS ZONING ORDINANCE

Section 17.21.030 Connection to Water and Sewer Facilities.....	36
Section 17.21.040 Foundations.....	36
Section 17.21.050 Project and Lot Size.....	36
Section 17.21.060 Setback Lines.....	36
Section 17.21.070 Height Restriction.....	36
Section 17.21.080 Landscaping.....	37
Section 17.21.090 Open Space.....	37
Section 17.21.100 Off-Street Parking.....	37
Section 17.21.110 Sidewalks.....	37
Section 17.21.120 Public Improvements.....	37
Section 17.21.130 Signs.....	37
 <b>CHAPTER 17.22</b>	
<b>PUD PLANNED UNIT DEVELOPMENT DISTRICT.....</b>	<b>38</b>
Section 17.22.010 Purpose of District.....	38
Section 17.22.020 Applicability.....	38
Section 17.22.030 Procedure for Authorization, Approval, Modifications, Extensions.....	38
Section 17.22.040 Preliminary and Secondary Review.....	39
Section 17.22.050 Abandonment or Expiration.....	40
Section 17.22.060 Reserved.....	41
Section 17.22.070 Permits and enforcement.....	41
Section 17.22.080 Covenants and Maintenance; Financial Guarantees.....	41
Section 17.22.090 Financial Guarantees.....	42
 <b>CHAPTER 17.24</b>	
<b>RB RESTRICTED BUFFER DISTRICT.....</b>	<b>42</b>
Section 17.24.010 Intention of District.....	42
Section 17.24.020 Conduct of Uses.....	42
Section 17.24.030 Permitted Uses.....	43
Section 17.24.040 Conditional Use.....	43
Section 17.24.050 Connection to Water and Sewer Facilities.....	43
Section 17.24.060 Lot Size.....	43
Section 17.24.070 Setback Lines.....	43
Section 17.24.075 Landscaping.....	44
Section 17.24.080 Height Restrictions.....	44
Section 17.24.090 Floor Area.....	44
Section 17.24.100 Off-Street Parking and Loading.....	44
Section 17.24.110 Signs.....	44
 <b>CHAPTER 17.26</b>	
<b>B-1 NEIGHBORHOOD BUSINESS DISTRICT.....</b>	<b>44</b>
Section 17.26.010 Intention of District.....	44
Section 17.26.020 Conduct of Uses.....	44
Section 17.26.040 Conditional Use.....	45
Section 17.26.045 Connection to Water and Sewer Facilities.....	45
Section 17.26.050 Lot Size.....	45
Section 17.26.060 Setback Lines.....	46
Section 17.26.065 Landscaping.....	46
Section 17.26.070 Height Restriction.....	46
Section 17.26.080 Floor Area.....	46

## COLUMBUS ZONING ORDINANCE

Section 17.26.090 Off-Street Parking and Loading.....	46
Section 17.26.100 Signs. ....	46
<b>CHAPTER 17.28</b>	
<b>B-2 COMMUNITY BUSINESS DISTRICT .....</b>	<b>46</b>
Section 17.28.010 Intention of District.....	46
Section 17.28.020 Conduct of Uses.....	46
Section 17.28.030 Permitted Uses.....	47
Section 17.28.040 Conditional Use.....	47
Section 17.28.045 Connection to Water and Sewer Facilities.....	47
Section 17.28.050 Lot Size.....	48
Section 17.28.060 Setback Lines.....	48
Section 17.28.065 Landscaping.....	48
Section 17.28.070 Height Restrictions.....	48
Section 17.28.080 Floor Area.....	48
Section 17.28.090 Off-Street Parking and Loading.....	48
Section 17.28.100 Signs. ....	48
<b>CHAPTER 17.30</b>	
<b>B-3 CENTRAL BUSINESS DISTRICT .....</b>	<b>48</b>
Section 17.30.010 Intention of District.....	49
Section 17.30.020 Conduct of Uses.....	49
Section 17.30.030 Permitted Uses.....	49
Section 17.30.040 Conditional Use.....	49
Section 17.30.045 Connection to Water and Sewer Facilities.....	49
Section 17.30.050 Lot Size.....	50
Section 17.30.060 Setback Lines.....	50
Section 17.30.070 Height Restriction. ....	50
Section 17.30.080 Floor Area.....	50
Section 17.30.090 Off-Street Parking and Loading.....	50
Section 17.30.100 Signs. ....	50
<b>CHAPTER 17.32</b>	
<b>B-4 HIGHWAY BUSINESS DISTRICT .....</b>	<b>50</b>
Section 17.32.010 Intention of District.....	50
Section 17.32.020 Conduct of Uses.....	50
Section 17.32.030 Permitted Uses.....	51
Section 17.32.040 Conditional Use.....	51
Section 17.32.045 Connection to Water and Sewer Facilities.....	51
Section 17.32.050 Lot Size.....	52
Section 17.32.060 Setback Lines.....	52
Section 17.32.065 Landscaping.....	52
Section 17.32.070 Height Restrictions.....	52
Section 17.32.080 Floor Area.....	52
Section 17.32.090 Off-Street Parking and Loading.....	52
Section 17.32.100 Signs. ....	52
<b>CHAPTER 17.34</b>	
<b>B-5 GENERAL BUSINESS DISTRICT .....</b>	<b>52</b>
Section 17.34.010 Intention of District.....	53

## COLUMBUS ZONING ORDINANCE

Section 17.34.020 Conduct of Uses.....	53
Section 17.34.030 Permitted Uses.....	53
Section 17.34.040 Conditional Use.....	53
Section 17.34.045 Connection to Water and Sewer Facilities.....	53
Section 17.34.050 Lot Size.....	54
Section 17.34.060 Setback Lines.....	54
Section 17.34.065 Landscaping.....	54
Section 17.34.070 Height Restriction.....	54
Section 17.34.080 Floor Area.....	54
Section 17.34.090 Off-Street Parking and Loading.....	54
Section 17.34.100 Signs.....	55
 <b>CHAPTER 17.36</b>	
<b>I-1 RESTRICTED INDUSTRIAL DISTRICT.....</b>	<b>55</b>
Section 17.36.010 Intention of District.....	55
Section 17.36.020 Permitted Uses.....	55
Section 17.36.030 Conditional Use.....	55
Section 17.36.040 Lot Size.....	55
Section 17.36.045 Connection to Water and Sewer Facilities.....	56
Section 17.36.050 Setback Lines.....	56
Section 17.36.055 Landscaping.....	56
Section 17.36.060 Height Restrictions.....	56
Section 17.36.070 Performance Standards.....	56
Section 17.36.080 Off-Street Parking and Loading.....	57
Section 17.36.090 Signs.....	57
 <b>CHAPTER 17.38</b>	
<b>I-2 MEDIUM INDUSTRIAL DISTRICT.....</b>	<b>57</b>
Section 17.38.010 Intention of District.....	57
Section 17.38.020 Permitted Uses.....	57
Section 17.38.030 Conditional Use.....	57
Section 17.38.035 Connection to Water and Sewer Facilities.....	58
Section 17.38.040 Lot Size.....	58
Section 17.38.050 Setback Lines.....	58
Section 17.38.055 Landscaping.....	58
Section 17.38.060 Height Restrictions.....	58
Section 17.38.070 Performance Standards.....	58
Section 17.38.080 Off-Street Parking and Loading.....	59
Section 17.38.090 Signs.....	59
 <b>CHAPTER 17.40</b>	
<b>I-3 HEAVY INDUSTRIAL DISTRICT.....</b>	<b>59</b>
Section 17.40.010 Intention of District.....	59
Section 17.40.020 Permitted Uses.....	59
Section 17.40.030 Conditional Use.....	60
Section 17.40.035 Connection to Water and Sewer Facilities.....	60
Section 17.40.040 Lot Size.....	60
Section 17.40.050 Setback Lines.....	60
Section 17.40.055 Landscaping.....	60
Section 17.40.060 Height Restriction.....	60

## COLUMBUS ZONING ORDINANCE

Section 17.40.070 Performance Standards.....	61
Section 17.40.080 Off-Street Parking and Loading.....	61
Section 17.40.090 Signs.....	61
<b>CHAPTER 17.42</b>	
SUPPLEMENTARY DISTRICT REGULATIONS .....	61
Section 17.42.010 Effect.....	61
Section 17.42.020 Building Setback Lines.....	61
Section 17.42.030 Distance Between Buildings.....	62
Section 17.42.040 Sidewalks.....	63
Section 17.42.050 Yard Exceptions--Application.....	63
Section 17.42.060 Encroachments.....	63
Section 17.42.070 Fences and Walls.....	63
Section 17.42.080 Storage.....	64
Section 17.42.090 Intersection Visibility.....	64
Section 17.42.100 Access and Frontage.....	64
Section 17.42.110 One Primary Structure Per Lot; Maintenance of Interior Roads.....	64
Section 17.42.120 Conversions Generally.....	65
Section 17.42.130 Relocated Buildings to Conform to Regulations.....	65
Section 17.42.140 Height Exceptions.....	66
Section 17.42.150 Temporary Use of Mobile Homes and Construction Trailers.....	66
Section 17.42.180 Above-ground Storage and Bulk Storage of Flammable Liquids and other Materials.....	66
Section 17.42.190 Supplementary General, Traffic and Open-Air Business Standards.....	67
Section 17.42.200 RESERVED.....	68
Section 17.42.210 Parking and Storage of Certain Vehicles.....	69
Section 17.42.220 RESERVED.....	69
Section 17.42.240 Width and Frontage Exceptions for Cul-de-Sac Lots.....	69
<b>CHAPTER 17.43</b>	
LANDSCAPING.....	69
Section 17.43.010 Purpose; General Provisions.....	69
Section 17.43.020 Amount of Landscaping Required .....	70
Section 17.43.030 Buffering Requirements .....	71
Section 17.43.040 Landscape Requirements for Parking Areas .....	72
Section 17.43.050. Alternative Approval Procedure .....	73
Section 17.43.060. Maintenance .....	74
Section 17.43.070. Assurances for Installation and Completion .....	74
Section 17.43.080. Violations and Penalties .....	74
Table 17.43.1	
Landscape Points.....	75
Table 17.43.2	
Buffers Between Zoning Districts .....	76
Table 17.43.3	
Parking Area Landscape Requirements .....	77
<b>CHAPTER 17.44</b>	
OFF-STREET PARKING AND LOADING .....	77
Section 17.44.010 Facilities Required; Purpose.....	77
Section 17.44.020 Scope.....	77
Section 17.44.030 Sizes and Dimensions.....	78

## COLUMBUS ZONING ORDINANCE

Section 17.44.040 Space Requirements.....	79
Section 17.44.050 Off-Site Parking Facilities.....	82
Section 17.44.060 Specifications and Standards Generally; Commercial Facilities.....	83
Section 17.44.070 Loading Requirements.....	84
<b>CHAPTER 17.46</b>	
<b>SIGNS</b> .....	85
Section 17.46.010 Statement of Purpose.....	85
Section 17.46.020 Definitions.....	85
Section 17.46.030 Permitted Signs.....	90
Section 17.46.040 Development Standards for Signs.....	93
Section 17.46.050 Areas and Uses of Special Character.....	94
Section 17.46.060 Sign Development Plans.....	98
Section 17.46.070 Signs Prohibited.....	98
Section 17.46.080 Nonconforming Signs.....	99
Section 17.46.090 Administration and Enforcement.....	99
TABLE 17.46.1	
PERMANENT PRIMARY SIGNS PERMITTED	
.....	103
TABLE 17.46.2	
PERMANENT SECONDARY SIGNS PERMITTED	
.....	105
TABLE 17.46.3	
TEMPORARY SIGNS PERMITTED.....	107
TABLE 17.46.4	
HEIGHT AND AREA	
PERMANENT FREESTANDING SIGNS.....	108
TABLE 17.46.5	
PERMANENT SIGNS (Not Free-Standing) <sup>1</sup>	
AREA REQUIREMENTS.....	109
TABLE 17.46.6	
HEIGHT AND AREA	
TEMPORARY SIGNS.....	110
<b>CHAPTER 17.47</b>	
<b>WIRELESS TELECOMMUNICATION FACILITIES</b> .....	111
Section 17.47.010 Purpose; General Provisions.....	111
Section 17.47.020 Definitions.....	111
Section 17.47.030 Permitted Telecommunication Facilities.....	112
Section 17.47.040 Telecommunication Facilities as an Accessory Use.....	113
Section 17.47.050 Telecommunication Facilities as a Conditional Use.....	113
Section 17.47.060 Setback, Placement, Lighting and Insurance.....	114
Section 17.47.070 Interference with Public Safety Telecommunications.....	115
Section 17.47.080 Locating Communication Facilities on Public Land.....	115
Section 17.47.090 Removal.....	116
Section 17.47.100 Existing Telecommunication Facilities.....	116
Section 17.47.120 Temporary Telecommunication Facilities.....	116
<b>CHAPTER 17.48</b>	
<b>AIRPORT HAZARD ZONE</b> .....	116

## COLUMBUS ZONING ORDINANCE

Section 17.48.010 Intent.....	116
Section 17.48.020 Establishment of Zones; Airport Zone Map.....	116
Section 17.48.030 Height Restrictions.....	117
Section 17.48.040 Land Use Restricted.....	117
Section 17.48.050 Nonconforming Structures and Trees to Be Marked and Lighted.....	117
Section 17.48.060 Prohibited Uses.....	117

### CHAPTER 17.50

<b>SPECIAL USES</b> .....	117
Section 17.50.010 Purpose & Establishment of Special Uses.....	117
Section 17.50.020 Churches (SU-1).....	119
Section 17.50.030 Schools (SU-2).....	120
Section 17.50.040 Public Parks and Recreational Facilities (SU-3).....	120
Section 17.50.050 Cemeteries (SU-4).....	120
Section 17.50.060 Children's Home and Child Care Institutions (SU-5).....	121
Section 17.50.065 Manufactured Home Parks (SU-6).....	121
Section 17.50.070 Correctional and Penal Institutions (SU-7).....	123
Section 17.50.080 Community Centers (SU-8).....	123
Section 17.50.090 Hospitals and Sanitariums (SU-9).....	124
Section 17.50.100 Riding Academies, Stables and Animal Hospitals (SU-10).....	124
Section 17.50.110 Public Buildings and Uses (SU-11).....	124
Section 17.50.120 Airports, Heliports and Landing Fields (SU-12).....	124
Section 17.50.130 Utility Installations (SU-13).....	125
Section 17.50.140 Refuse Disposal Facilities (SU-14).....	125
Section 17.50.150 Private and Public Clubs (SU-15).....	127
Section 17.50.160 Institutions of Higher Learning and Special Schools (SU-16).....	127
Section 17.50.170 Institutional and Philanthropic Uses and Similar Uses (SU-17).....	127
Section 17.50.180 Amusement Parks, Racing Establishments and Sports Arenas (SU-19).....	127
Section 17.50.190 Private Recreational Facilities (SU-20).....	128
Section 17.50.200 Mineral Extraction Operations (SU-21).....	128
Section 17.50.210 Cluster Developments (SU-22).....	130

### CHAPTER 17.52

<b>ACCESSORY USES</b> .....	130
Section 17.52.010 Purpose.....	130
Section 17.52.020 General Requirements.....	131
Section 17.52.030 Interpretation.....	131
Section 17.52.040 Permitted Uses.....	131
Section 17.52.050 Garages, Accessory Buildings, and Farm Buildings.....	132
Section 17.52.060 Swimming Pools.....	132
Section 17.52.070 Fallout Shelters.....	134
Section 17.52.080 Television Antennas.....	134

### CHAPTER 17.54

<b>TEMPORARY USES</b> .....	135
Section 17.54.010 Purpose.....	135
Section 17.54.020 Duration of Permit; Renewal; Applicability of Regulations of Zone District.....	135
Section 17.54.030 Permitted Uses.....	135
Section 17.54.040 Standards, Prohibitions and Restrictions Generally.....	135

# COLUMBUS ZONING ORDINANCE

## CHAPTER 17.56

<b>HOME-BASED BUSINESSES</b> .....	136
Section 17.56.010 Purpose. ....	136
Section 17.56.020 General Provisions. ....	136
Section 17.56.030 Level I Home-Based Businesses .....	136
Section 17.56.040 Level II Home-Based Businesses.....	137
Section 17.56.050 Home-Based Business as Conditional Uses.....	139
Section 17.56.060 Administration and Enforcement.....	140

## CHAPTER 17.60

<b>NONCONFORMING USES</b> .....	141
Section 17.60.010 Intention.....	141
Section 17.60.020 Nonconforming Lots of Record. ....	141
Section 17.60.030 Nonconforming Structures.....	142
Section 17.60.040 Nonconforming Uses .....	142
Section 17.60.050 Repairs and Maintenance.....	143
Section 17.60.060 Uses Under Conditional Use Provisions Not Nonconforming Uses.....	143

## CHAPTER 17.61

<b>BOARD OF ZONING APPEALS</b> .....	144
Section 17.61.010 Establishment; Composition; Appointments.....	144
Section 17.61.020 Organization.....	144
Section 17.61.030 Promulgation of Rules. ....	145
Section 17.61.040 Stays Pending Appeals.....	145
Section 17.61.050 Appeals of Administrative Decisions.....	146
Section 17.61.060 Conditional Use. ....	146
Section 17.61.070 Development Standards for Conditional Uses.....	146
Section 17.61.080 Variances .....	148
Section 17.61.090 Administrative Powers; Imposition of Conditions and Commitments. ....	149
Section 17.61.100 Appeal on Writ of Certiorari. ....	150

## CHAPTER 17.62

<b>FLOODPLAIN REGULATIONS</b> .....	150
Section 17.62.010 Statement of Purpose.....	150
Section 17.62.020 Flood Hazard Areas Described.....	150
Section 17.62.030 Duties of the Staff.....	151
Section 17.62.040 Regulatory Flood Elevation. ....	151
Section 17.62.050 Permitted Uses.....	152
Section 17.62.060 Improvement Location Permit. ....	154
Section 17.62.070 Preventing Increased Damages.....	155
Section 17.62.080 Protecting Buildings.....	155
Section 17.62.090 Other Development Requirements.....	157
Section 17.62.100 Variances. ....	158
Section 17.62.110 Disclaimer of Liability.....	158
Section 17.62.120 Violations.....	159
Section 17.62.130 Abrogation and Greater Restrictions.....	159

# COLUMBUS ZONING ORDINANCE

## TITLE 17 ZONING

### CHAPTER 17.02 GENERAL PROVISIONS

#### Section 17.02.010 Purpose

This Title is designed to encourage the growth of the physical elements of the City in accordance with a comprehensive plan of land use so that the City may realize its potentialities as a place to live and work. To that end the purpose of this Title is to do the following:

- A. Regulate the location, height, bulk, area and use of buildings, structures and land.
- B. Regulate the size of yards, setbacks, courts and other open spaces.
- C. Provide for adequate off-street parking spaces.
- D. Determine the density and distribution of population and the use and intensity of use of land for residence, trades, industries, public activities and other specified purposes.
- E. Provide for reasonable standards assuring the use and enjoyment of property to all.
- F. Create districts of such kind, character, number, shape and area as may be necessary to carry out such purposes, and establishing the boundaries thereof.
- G. Provide for the method of administration, amendment and enforcement, and the establishment of a Board of Zoning Appeals.
- H. Provide for penalties for the violation of the Sections of this Title. (Ord. No. 2239, §102; Prior code §35-2)

#### Section 17.02.020 Definitions.

For the purposes of this Title, the following words and phrases shall have the meanings respectively ascribed to them by this Section, except when the context clearly indicates otherwise:

Accessory use or structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, including walls, and fences. (Ord. No. 52, §3, 12-19-95)

Agriculture. The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry, the primary processing of products thereof produced on the premises and the necessary accessory uses for packing, treating or storing said products; provided, that the principal characteristic of such operations shall not include the commercial processing of agricultural products produced primarily on farms other than that on which the processing facilities are located.

Alley. A permanent public service way affording only secondary means of vehicular access to the back or side of property otherwise abutting on a street.

Bed and breakfast unit. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. (Ord. No. 19, 1985, 4-2-85)

Bed and breakfast use. An operator-occupied residence that:

- 1. provides sleeping accommodations to the public for a fee;
- 2. has no more than fourteen (14) guest rooms
- 3. provide breakfast to its guests as part of the fee; and
- 4. provides sleeping accommodations for no more than thirty (30) consecutive days to a particular guest.

## COLUMBUS ZONING ORDINANCE

This term does not include hotels, motels, boarding houses, or food service establishments. (Ord. No. 20, 1996, 5-21-96)

Board. The City Board of Zoning Appeals reestablished by this Title.

Buildable-building area. The portion of the lot remaining after required yards or setback lines have been provided. Buildings may be placed in any part of the buildable area, but if there are limitations on the amount of the lot which may be covered by buildings, some open space may be required within the buildable area.

Building. A roofed structure for the shelter, support, enclosure or protection of persons, animals or property.

Building. see "\*"structure"

Bulk flammable material storage. The type of storage where flammable or combustible liquids or gases are received by tank vessel, pipelines, tank car, or tank vehicle, and are stored and blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container. Also including any storage of explosives or blasting agents.

Camping grounds. A parcel of land used or intended to be used for temporary occupancy by campers, or for temporary occupancy by or of recreational vehicles, travel trailers, tents, cabins, or other temporary accommodations. (Ord. No. 18, 1986, §1, 4-1-86; Ord. No. 14, 1995, §3, 3-5-95)

Car wash. A structure, or portion thereof, containing commercial facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device or other mechanical devices; and shall include a manually operated car wash facility when the operation is equivalent in intensity to a mechanized car wash.

Child or adult care home. A residential structure in which at least six (6) children or other individuals at any time receive care from a provider, not including those for whom the provider is a parent, stepparent, guardian, custodian, or other relative, but no more individuals may receive care than the maximum allowed by IC 12-7-28.6. (Ord. No. 28, 1992 §3.)

Child care service. The care by an individual of not more than five (5) children at any one time, including his/her own minor children, for less than twenty-four (24) continuous hours in his/her own residence. (Ord. No. 56, 1986)

Child care use. The care by an individual of children in the children's residences (i.e., "babysitting"). (Ord. No. 56, 1986)

Club. An establishment operated for social, recreational or educational purposes that is open only to members and not the general public.

Combustible liquid. A liquid having a flash point at or above 100 degrees Fahrenheit, but less than 650 degrees Fahrenheit. Materials with a flash point at or above 650 degrees Fahrenheit shall for the purposes of this ordinance be considered essentially non-combustible.

Commercial Center. A group of four or more separately operated commercial establishments, planned, developed, owned, and managed as a unit, with common off-street parking provided on the property. (Ord. No. 44, §3, 10-1-91)

Commission. The Columbus City Plan Commission.

## COLUMBUS ZONING ORDINANCE

Common Council. The Common Council or City Council of the City of Columbus.

Compatible-incompatible. A compatible land use situation is presented when a use is suitable for direct association with certain other uses because of consistency with the intent of the zoning district, similar or comparable characteristics, and indicating a mutually harmonious relationship with respect to protecting the use, value and enjoyment of property. An incompatible land use situation is presented when a use is unsuitable for direct association with certain other uses because it is contradictory, incongruous or discordant.

Conditional Use. A conditional use is a use that would not be appropriate generally or without restriction throughout the zone district but which, if controlled as to number, area, location or relation to the neighborhood could promote the public health, safety, convenience, prosperity or general welfare. Such uses may be permitted in such zone districts as conditional use, if specific provision for such conditional use is made in this Title.

Confinement or concentrated feeding operation. The production, maintenance and breeding of animals for food, fur or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals only by means other than grazing or gleanings. For purposes of this ordinance, confined feeding shall include such operations exceeding the following number of animals per acre: four (4) cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, four (4) horses. Only the area occupied by the confined feeding operation shall be included in the calculation of the number of animals per acre. (Ord. No. 24, §3, 6-7-94)

Construction trailer. A manufactured mobile unit without cooking or bathroom facilities, not designed for dwelling purposes, used as a temporary office or other similar use. (Ord. No. 14, 1995, §3, 3-5-95)

Correctional and penal institutions. A state or federal prison for those convicted of serious crimes.

Day care center. An establishment in which any number of children receive care for less than twenty-four (24) continuous hours at a location other than their own residence or the residence of the care provider. Day care centers must be state licensed, and include "nursery schools," "preschools," etc. but not public or private schools of general education. (Ord. No. 56, 1986)

Development. A manmade change to improved or unimproved real estate including but not limited to:

1. construction or placement of a building or construction of any addition to a building, and reconstruction; (Ord. No. 28, 1995, §3, 6-20-95; Ord. No. 33, 1999, §III, 11-16-99)
2. installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days;
3. installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. construction of flood control structures such as levees, dikes, channel improvements, etc.;
5. mining, dredging, filling, grading, paving, excavation, or drilling operation;
6. construction and/or reconstruction of bridges or culverts;
7. storage of materials; or
8. any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

Drive-in restaurant. Any establishment where food and/or beverage is dispensed to the consumer and where motor vehicle parking space is provided and where such food and/or beverage may be consumed in the motor vehicles parked upon the premises outside the building, and where facilities are not provided within the enclosed interior for at least 15 fixed seats at a counter and/or at tables. Provided, however, that any establishment furnishing vehicle

## COLUMBUS ZONING ORDINANCE

attendant service shall be considered a drive-in restaurant as defined by this ordinance regardless of any accommodation provided in the enclosed interior of the building. (Ord. No. 49, §3, 8-21-90)

Drive-through establishment. Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle, which is usually left running, during such business transactions. (Ord. No. 49, §3, 8-21-90)

Dwelling, multi-family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family detached. A building that is not attached to any other dwelling by any means and is surrounded by open space or yards, designed for occupancy by one (1) family. A Type I Manufactured Home which is placed on a permanent foundation and is provided with a permanent perimeter skirting of eight- (8) inch concrete block installed in accordance with American Standard Testing requirements (ASTM) of current adoption or poured concrete wall, qualifies as a single-family dwelling. A Type II Manufactured Home or a Recreational vehicle does not qualify as a single-family dwelling. (Ord. No. 14, 1995, §3, 3-5-95)

Dwelling, two-family. A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.

Dwelling unit. One (1) room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Dwelling, urban. A residential dwelling unit or building, detached, attached or semi-attached, designed for year-around living with the four (4) outside walls supported by a permanent foundation and fabricated by either compact, sectionalized, modular, portable or conventional construction techniques. This definition is intended to be all-encompassing with respect to types of construction and types of dwellings.

Easement. A strip of land to be used by the general public, a corporation, a utility company or a certain person for a specific reason for purposes of providing services to property.

Elderly housing. Residential use where at least ninety percent (90%) of the dwelling units or rooming units are intended to be occupied by persons sixty (60) years of age or older, and where perpetual guarantees are in evidence assuring such occupancy provisions and certain physical safety features including at least eight (8) of the following ten (10) components:

1. Ramps or elevators in place of steps.
2. Nonskid floors.
3. Doors of sufficient width to accommodate wheelchairs to all rooms.
4. Electric cooking ranges.
5. Showers in place of tubs for more than fifty (50) percent of the units.
6. Electric outlets at levels at least twenty-four (24) inches above the floor.
7. Grab bars around tubs and toilets.
8. Central heating.
9. Handle-type spigots and door knobs.
10. Emergency signals which ring in adjoining apartments or at a central location.

Engineering or research laboratories use. A facility engaged in design and testing of products. Manufacturing is limited to prototypes used for on-site testing purposes only; sales or distribution of products is not allowed.

## COLUMBUS ZONING ORDINANCE

Essential services, minor. Includes overhead or underground gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing mobile home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Family. One (1) or more persons occupying a single dwelling unit; providing, that unless all members are related by blood or marriage, no such family shall contain over five (5) persons; provided further, that domestic servants employed on the premises may be housed on the premises without being counted as a family. This definition is also distinguished from a group occupying a lodging house, fraternity, club or hotel.

Farm. A parcel used for commercial agriculture, comprising at least ten (10) contiguous acres which may contain other noncontiguous acreage, all of which is operated by a sole proprietorship, partnership, or corporation and including all necessary farm buildings, structures and machinery. A smaller tract may be considered a farm under the following circumstances:

1. The tract is between five and ten acres, is devoted primarily to an agricultural use, and has produced a gross annual income from agriculture of at least \$200.00 per year per acre of cleared and tillable land; or
2. The tract is less than five acres in size, but is designated by the Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of \$2000.00 or more. (Ord. No. 43, §3, 10-1-91)

Farm Animal. Any domestic species of cattle, sheep, swine, goats, llamas, horses, donkeys, poultry, ostrich or any similar animals which are normally or have been historically kept on farms and used or intended for use as food or fiber, or for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. This term also includes animals such as rabbits, mink, and chinchilla, when they are used solely for purposes of meat or fur, and animals such as horses and llamas when used solely as work and pack animals. (Ord. No. 45, §3, 11-2-93, Ord. No. 24, §3, 6-7-94)

Farm Building. Any building or accessory structure other than a dwelling unit, which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or milkhouse. (Ord. No. 43, §3, 10-1-91)

Farm Building. Any building or accessory structure other than a dwelling unit, which is used for the storage of an agricultural commodity, farm machinery used for commodity production, or farm livestock. (Ord. No. 43, §3, 10-1-91)

Feedlot. Buildings, structures, lots, pens, pools or ponds which are not normally used for raising crops, and in which no vegetation intended for animal food is growing; provided, that such feedlots shall demonstrate positive control measures toward pollution problems.

FBFM. Flood Boundary and Floodway Map. (Ord. No. 28, 1995, §3, 6-20-95)

## COLUMBUS ZONING ORDINANCE

FEMA. Federal Emergency Management Agency (Ord. No. 33, 1999, §III, 11-16-99)

FHBM Flood Hazard Boundary Map (Ord. No. 33, 1999, §III, 11-16-99)

FIRM. Flood Insurance Rate Map.

Flammable liquid. A liquid having a flash point below 100 degrees Fahrenheit.

Flammable material storage. The keeping, retention or leaving of flammable or combustible liquids, gases or other materials in closed containers, tanks or similar vessels that will be used for commercial or industrial purposes and which is not bulk storage. It shall not include that storage which is incidental to the primary use of the property or such storage that is necessary for the normal operation of a wholesale or retail business.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood hazard area. Any zone A, floodway, floodway fringe or any combination thereof. (Ord. No. 86-2, §1, 3-18-86, Ord. No. 28, 1995, §3, 6-20-95)

Floodplain. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe. (Ord. No. 28, 1995, §3, 6-20-95)

Flood Protection Grade or the "FPG." The elevation of the regulatory flood plus two feet at any given location in the SFHA.

Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream. (Ord. No. 33, 1999, §III, 11-16-99)

Floodway Fringe. Those portions of the floodplain lying outside the floodway.

Floor area. The sum of the horizontal areas of the one (1) or several floors of all buildings or portions thereof, on the lot or within the project, and devoted to permitted uses.

Floor area ratio. The total floor area of all stories of all buildings within the lot or project divided by the land area.

Group home. A residential facility licensed by the Developmental Disabilities Residential Facilities Council that provides residential services for not more than eight (8) developmentally disabled persons, none of whom has a history of violent or antisocial behavior, and such staff, not to exceed two (2) at any one time, as are necessary to adequately manage the home. (Ord. No. 29, 1999, §3, 10-19-99)

Height. The vertical distance of a building or structure measured from the average finished grade level to the highest point of the building or structure for flat roofs, to the deck line for mansard roofs, and to the mean height level between eaves and ridges for gables and hip roofs.

IDNR. Indiana Department of Natural Resources (Ord. No. 28, 1995, §3, 6-20-95)

## COLUMBUS ZONING ORDINANCE

Improvement location permit. A permit or certificate of zoning compliance prerequisite to the issuance of a building permit indicating that the proposed use, erection, construction, reconstruction, alteration or moving of a building or structure, or use of land, referred to therein, complies with the Sections of this Title.

Kennel. Where five (5) or more dogs or ten (10) or more cats, more than six (6) months of age, are boarded, bred, cared for or kept, on any premises, except where accessory to an agricultural use.

Land area. The total area within the lot or project boundaries, plus the area of half of any abutting alley or street right-of-way, plus half the area of any abutting open space, such as a river, lake, public park, playground or golf course, with reasonable expectancy of perpetuity; provided, that no portion of such open space located more than fifty (50) feet from the lot or project boundaries shall be included in computing such land area.

Letter of Map Amendment (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA. (Ord. No. 33, 1999, §III, 11-16-99)

Letter of Map Revision (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations. (Ord. No. 33, 1999, §III, 11-16-99)

Livestock. Any animal raised for food, fur, pleasure or resale.

Loading area. The area available for the maneuvering and standing of vehicles engaged in the delivering, pick-up, loading and unloading of freight of other articles. (Ord. No. 34, §3, 7-1-97)

Lot. The word lot includes the words plot or parcels. A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage and access on an improved public street or on an approved private street and may consist of the following:

1. A single lot of record.
2. A portion of a lot of record.
3. A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record.
4. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Title.

Lot area. The horizontally projected area of a lot computed exclusive of any portion of a street.

Lot coverage. The total ground area of a lot usually expressed as a percentage of the lot area that is covered, occupied or enclosed by principal and accessory buildings and structures.

Lot frontage. The linear distance of a lot measured at the front lot line where such lot abuts a street, measured between side lot lines.

Lot of record. A lot which is part of a subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot width. The distance between the side lot lines as measured at the front setback line.

Lowest Floor. The lowest of the following:

1. the top of the basement floor;
2. the top of the garage floor, if the garage is the lowest level of the building;

## COLUMBUS ZONING ORDINANCE

3. the top of the first floor of the buildings elevated on pilings or constructed on a crawl space with permanent openings: or

4. the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of the flood waters unless:

a. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.

b. such enclosed space shall be usable for the parking of vehicles and building access. (Ord. No. 33, 1999, §III, 11-16-99)

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park. A parcel of land containing two or more spaces with required improvements and utilities that are leased for the long-term placement of manufactured homes. (Ord. No. 14, 1995, §3, 3-5-95)

Manufactured home subdivision. A subdivision containing individually platted lots designed for the permanent placement of manufactured homes. (Ord. No. 14, 1995, §3, 3-5-95)

Manufactured home, Type I. A structure transportable in one or more sections, which in the completed mode, is 23 body feet or more in width at its narrowest dimension, when erected on site is 950 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. It shall bear a label certifying it is built in compliance with the federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976. It shall be built after January 1, 1981. (Ord. No. 14, 1995, §3, 3-5-95)

Manufactured home, Type II. A structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width at its narrowest dimension or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It shall bear a label certifying it is built in compliance with the federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976. (Ord. No. 14, 1995, §3, 3-5-95)

Manufacturing. The manufacturing, processing, fabrication or repairing of any goods, product or materials where no continuous process involved will produce fire hazard, electrical disturbance, noise, vibration, odor, air pollution, heat, glare, water pollution or waste matter which will disturb or endanger any neighboring property and where such operations and storage are enclosed.

Mechanical areas. Mechanical units located on the outside of buildings, including, but not limited to heating, ventilation, and air conditioning units, generators, and walk-in freezers. (Ord. No. 34, §3, 7-1-97)

Model Home. A structure or unit within a structure, designed and built as a residential structure, but temporarily used for the purpose of showing or marketing other residential units to prospective purchasers or renters.

Mobile home. A structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width at its narrowest dimension which when erected on site, is 320 or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air

## COLUMBUS ZONING ORDINANCE

conditioning, and electrical system contained therein, and which was manufactured prior to the effective date of the federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976. (Ord. No. 14, 1995, §3, 3-5-95)

Mobile Home Park. A parcel of land containing two or more spaces, with required improvements and utilities, that are leased for the long-term placement of mobile homes. (Ord. No. 14, 1995, §3, 3-5-95)

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Non-conforming use. Any building or land lawfully occupied by a use at the time of passage of the Title which does not conform after the passage of this Title with the use regulations of the district in which it is situated. Existing improvements which do not meet required lot size, setback lines, height, intensity, off-street parking and loading, signs and other regulations for the district in which they are situated are not non-conforming uses as defined herein.

Number. The singular number includes the plural, and the plural number includes the singular.

Occupancy permit. A permit or certificate of zoning compliance stating that the premises have been inspected after the erection, construction, reconstruction, alteration or moving of a building or structure, or after the change in use or character of land, referred to herein, and that the proposed use of the building, structure or land complies with the Sections of this Title.

Open addition. Any addition supported by posts, poles, pillars, or similar supports whose only wall is the existing wall to which the addition is attached. (Ord. No. 28, 1995, §3, 6-20-95)

Open space. The total horizontal area of a lot excluding the building area but including parking areas and recreational areas; provided, that in the R-5, R-6, R-7, and R-8 Residential District, such open space may include the usable roof area within the project which has been improved for outdoor use of occupants, plus one-half of that space, such as balconies, which may be open on its sides but not open above to the sky.

Open space ratio. The open space divided by the floor area.

Open structure. Any structure supported by posts, poles, pillars, or similar supports that has no walls. (Ord. No. 28, 1995, §3, 6-20-95)

Person. Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Place. A private space or service way other than a public street or alley, permanently reserved as approved and recorded therefor by the Board or Commission for use as an access easement or the principal means of access to abutting property.

Project. A lot or parcel of contiguous land which at the time of development is under one (1) ownership or control, and is to be developed in permitted uses which may gain access from private interior access roads; provided, that such project and roads meet the requirements of this Title.

## COLUMBUS ZONING ORDINANCE

Quarter-Mile Square Area. For purposes of this ordinance, a quarter-mile square area shall be an area 1320 feet by 1320 feet measured from the boundary or perimeter of the area containing the activity for which the urban area is to be measured (see Urban Area). (Ord. No. 24, §3, 6-7-94)

Recreation vehicle. A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Regulatory flood. The flood having a one percent (1%) probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is defined in Chapter 17.62 of this Title. The "Regulatory Flood" is also known by the term "Base Flood."

Roadside stand. A structure or portion thereof for the shelter, display and sale of agricultural products produced on the premises with no space for customers within the structure itself.

Rooming or boardinghouse. A building containing accommodation facilities in common where lodging or meals or both are provided to three (3) or more guests for compensation on a regular basis, in contradistinction to hotels and to restaurants open to transients, bed and breakfast uses, and to dwelling units. (Ord. No. 19, 1985, 4-2-85)

Rooming or board unit. An area within a rooming or boardinghouse definable as a lodging or sleeping space.

Service station. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, limited to the following:

1. Sale and servicing of spark plugs, batteries and distributors and distributor parts.
2. Tire servicing and repair but not recapping or regrooving.
3. Replacement of mufflers and tailpipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and similar equipment.
4. Radiator cleaning and flushing.
5. Washing and polishing and sale of automotive washing and polishing materials.
6. Greasing and lubrication.
7. Providing and repairing fuel pumps, oil pumps and lines.
8. Minor servicing and repair of carburetors.
9. Emergency wiring repairs.
10. Adjusting and repairing brakes.
11. Minor motor adjustments not involving removal of the head or crankcase or racing the motor.
12. Sales of cold drinks, packaged foods, ice, tobacco and similar convenience goods for service stations customers, as accessory and incidental to principal operation.
13. Rental of hauling vehicles for the moving of household goods, but not including the sale or rental of automobiles, mobile homes, Type I manufactured homes, Type II manufactured homes, or recreational vehicles, as accessory and incidental to principal operation. (Ord. No. 14, 1995, §3, 3-5-95)
14. Provision of road maps and the other informational materials to customers and provision of restroom facilities.

Uses permissible at a service station do not include major mechanical and body work, straightening of frames or body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. A service station shall not be construed as a repair garage or a body shop.

## COLUMBUS ZONING ORDINANCE

Setback line. The line which establishes the minimum depth of yard on a lot beyond which no building or structure is permitted, as measured from the street line or lot line. (Ord. No. 49, §3, 11-1-94)

SFHA or Special Flood Hazard Area. Those lands within the jurisdiction of the City that are subject to inundation by the regulatory flood and the 500-year flood. The SFHAs of the City are generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated January 5, 1996. The SFHAs of those parts of unincorporated Bartholomew County that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Bartholomew County by the Federal Emergency Management Agency and dated March 15, 1982. (Ord. No. 28, 1995, §3, 6-20-95; Ord. No. 52, §III, 12-19-95)

Shadow addition. An addition to an existing structure that is located on the upstream or downstream side of the existing building, and that does not extend beyond the sides of the existing building that are parallel to the floodway flow direction. (Ord. No. 28, 1995, §3, 6-20-95)

Shall; may. The word "shall" is mandatory; the word "may" is permissive.

Staff. The Planning Director, the Chief Technical Code Enforcement Officer, and their designees. (Ord. No. 3, §3, 2-4-92)

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. For purposes of this Title, a basement shall be counted as a story if more than four (4) feet of said basement is above the average grade of adjoining ground or if the basement is used for business or dwelling purposes other than storage. (Ord. No. 86-2, §1, 3-18-86)

Street. A strip of land dedicated to public use which provides the principal means of access to abutting property.

Street Centerline. The centerline of any street is the point in the pavement which is equidistant from both edges of pavement. (Ord. No. 49, §3, 11-1-94)

Street line. The right-of-way line of a street.

Structural alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in the exterior walls.

\*Structure. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.

Structure. Anything constructed or erected on the ground or having a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to buildings, factories, sheds, detached garages, cabins, mobile homes, Type I manufactured homes, Type II manufactured homes, free-standing signs, and other similar items. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 52, §3, 12-19-95).

\*Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 40 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state

## COLUMBUS ZONING ORDINANCE

or local health, sanitary, or safety code requirements or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Time. The present tense includes the future tense.

Trip ends. The total of all trips entering or leaving a designated land use or building type over a given period of time.

(Ord. No. 98-15 , §III, 5-6-98)

Urban Area. For purposes of Sections 17.04.010 through 17.04.030 of this ordinance, urban area shall include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least twelve (12) residences within any quarter mile square area, and other lands that have been platted and zoned for residential or commercial purposes and are contiguous to the municipality. (Ord. No. 45, §3, 11-2-93) For all other purposes, *urban area* shall be as defined in the Indiana Code (see *Quarter-Mile Square area*). (Ord. No. 24, §3, 6-7-94)

Use. The purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained and shall include any manner of standards of the Title.

Used or occupied. Includes the words intended, designed or arranged to be used or occupied.

Yard. A required setback distance or open space other than a court, unoccupied and unobstructed, between the lot line and the minimum building setback line; provided, that ornamental fences, walls, structural screens and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to the terms of this Title.

Yard, front. A yard extending between side lot lines across the front of a lot adjoining a street, which constitutes the front setback distance. For purposes of this definition, the word *street* includes a public or private street or a private access easement. (Ord. No. 49, §49, 12-5-95).

Yard, rear. A yard extending between side lot lines across the rear of a lot adjoining the rear lot line, which constitutes the rear setback distance.

Yard, side. A yard extending from the rear line of the required front yard to the nearest point of the required rear yard, which constitutes the side setback distance.

Yard, transitional. A yard in effect when a nonresidential zone district abuts or is adjacent across a street to a residential zone district. (Ord. No. 2239, §§601 to 603; Ord. No. 2396; Ord. No. 2405; Ord. No. 2742; §1; Ord. No. 2920, §1; Ord. No. 3030, §1, 1; Prior Code, §35-1)

Zoning Administrator. The official designated by this Chapter or by the Rules of Procedure of the Plan Commission or the Board of Zoning Appeals to carry out the various duties required to administer and enforce this Chapter. There may be different individuals designated as zoning administrators for different functions required to carry out this Title. (Ord. No. 3, §3, 2-4-92)

\*Denotes Definitions which are applicable only to Chapter 17.62, Floodplain Requirements.

### **Section 17.02.030 Designation of Districts; Subdivision of Land Permitted.**

The City and its authorized jurisdictional area are divided into zoning districts in order to carry out the purposes of this Title. Such districts are stated in this Title as shown by the district boundaries on the official zoning map. The districts shall be known as follows:

## COLUMBUS ZONING ORDINANCE

<u>Name of District</u>	<u>Designation</u>
AG Agricultural District	AG
R-1 Single Family Residential District	R-1
R-2 Single Family Residential District	R-2
R-3 Single Family Residential District	R-3
R-4 Single Family Residential District	R-4
R-5 Urban Residential District	R-5
R-6 Multi-Family Residential District	R-6
R-7 Multi-Family Residential District	R-7
R-8 Manufactured Home Development District	R-8
PD Planned Unit Development District	PD
RB Restricted Buffer District	RB
B1 Neighborhood Business District	B1
B-2 Community Business District	B-2
B-3 Central Business District	B-3
B-4 Highway Business District	B-4
B-5 General Business District	B-5
I-1 Restricted Industrial District	I-1
I-2 Medium Industrial District	I-2
I-3 Heavy Industrial District	I-3

The subdivision of land is permitted in any district established by this Title, provided that said action is in accordance with the requirements of the applicable zoning district and the subdivision control ordinance. (Ord. No. 2239, §206; Ord. No. 33-86, 6-3-86; Ord. No. 25, §3, 9-7-99, Prior code §35-3)

### **Section 17.02.040 Boundaries of District and Zoning Map.**

A. The City and land within its territorial jurisdiction is divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this Title. Said map is on file in the office of the City Clerk-Treasurer and available for public inspection during regular business hours.

B. The official zoning map shall be identified by the signature of the mayor attested to by the city clerk-treasurer, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in of Ordinance Number 33-1986 of the City of Columbus, Indiana," adopted June 3, 1986 (effective date: June 27, 1986).

C. If, in accordance with the Sections of this Title, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on such map promptly after the amendment has been approved by the Common Council, with an entry on the official zoning map as follows: "On (date) by official action of the Common Council, the following changes were made in the Official Zoning Map: (brief description of the nature of the changes)," which entry shall be signed by the mayor and attested to by the city clerk-treasurer. No amendment to this Title which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on such map.

D. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Section. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Title and punishable as provided under Section 17.02.030.

E. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city clerk-treasurer and shall be the final authority as to the current zoning status of land and water areas, building and other structures in the City and its territorial jurisdiction.

## COLUMBUS ZONING ORDINANCE

F. In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Common Council may direct the Commission to prepare a new official zoning map which shall supersede the prior map upon approval by the Common Council. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested to by the city clerk-treasurer and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces on this day (date) the Official Zoning Map adopted June 3, 1986, as part of Ordinance Number 33, 1986 of the City of Columbus, Indiana."

G. Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant part thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment. (Ord. No. 2239, §201; Prior Code, §35-4)

### **Section 17.02.050 Interpretation of District Boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.

B. Boundaries indicated as approximately following section lines, City corporate limit lines or platted lot lines shall be construed as following such lines.

C. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

D. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

E. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through D of this Section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

F. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subsections A through E. of this Section, the Board of Zoning Appeals shall interpret the district boundaries.

G. The vacation or relocation of right-of-way and lot lines shall not affect the location of district boundaries; provided, that whenever any right-of-way is vacated by proper authority, the districts adjoining each side of such vacation shall be extended automatically to the center of such vacation.

H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Title, the Board of Zoning Appeals, upon appeal, shall interpret the applicable regulations for either portion of the lot not to exceed fifty (50) feet beyond the district boundary line into the remaining portion of the lot. (Ord. No. 2239, §202; Prior Code §35-5)

### **Section 17.02.060 Administration**

The administration of this Title shall be in accordance with IC 36-7-4 *et seq.* (Ord. No. 3, §4 (part), 2-4-92; Ord. No. 0-8 §1 (part), 1990; Prior code §35-6)

### **Section 17.02.070 Staff - Powers and Duties.**

A. The staff shall have the authority to take those lawful actions necessary to enforce the terms of this Chapter on behalf of the plan commission and board of zoning appeals.

B. The authority to perform inspections, review applications and issue permits is hereby delegated to the staff. The staff is authorized to make inspections of all lands located within the jurisdiction of the Plan Commission in order to enforce this Title. In order to execute inspections, the staff shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these regulations. If the

## COLUMBUS ZONING ORDINANCE

owner or occupant of the premises refuses to permit entry, the staff may make application to any judge of the Circuit or Superior Courts of Bartholomew County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a violation of these regulations exists on such premises. (Ord. No. 3, §4, 2-4-92; Prior code §35.7)

### **Section 17.02.080     Correction of Violations.**

If the staff shall find that any of the Sections of this Title are being violated, the staff shall take action to correct such violations as specified in Section 17.02.230. (Ord. No. 3, §4, 2-4-92; Prior code §35.8)

### **Section 17.02.090     Questions of Interpretation**

It is the intent of this Title that all questions of interpretation of Sections of this Title shall be first presented to the staff. Recourse from the decision of the staff shall be only to the Board of Zoning Appeals, and recourse from the decision of the Board of Zoning Appeals shall be to the Courts as provided by law. (Ord. No. 3, §4, 2-4-92; Prior code §35-9)

### **Section 17.02.100     Authority of Plan Commission, Board of Zoning Appeals and Staff.**

The Plan Commission, Board of Zoning Appeals and staff shall have the following authority respectively:

A. The Plan Commission is hereby authorized to perform those duties and functions specified in IC 36-7-4-400 *et seq.* and other applicable sections of Indiana law and such other responsibilities as may be assigned to it from time to time by the mayor or the Common Council. The Commission shall adopt written rules of procedure for the administration of the affairs of the commission and its staff and for investigations and hearings.

B. The Board of Zoning Appeals is hereby authorized to perform those duties and functions specified in IC 36-7-4-900 *et seq.* and other applicable sections of Indiana law. The Board shall adopt written rules of procedure pertaining to the administration of this Chapter and the conduct of hearings.

C. The staff is hereby authorized to perform those duties specified by IC 36-4-700 *et seq.* and such other duties as may be assigned to it from time to time by the Plan Commission, Board of Zoning Appeals, mayor or Common Council. (Ord. No. 3, §4 (part), 2-4-92; Ord. 90-8 §1 (part), Prior code §36-10)

### **Section 17.02.110     Improvement Location Permits.**

A. No building permit shall be issued unless and until an improvement location permit shall first have been approved. The issuance of an improvement location permit shall in no case be construed as waiving any Section of this Title nor of the necessity to obtain any other permits such as building permits and access permits required by law. The staff is hereby authorized to issue improvement location permits in accordance with IC 36-7-4-800 *et seq.* and the "Rules of Procedure" of the Plan Commission.

B. If the work described in any improvement location permit has not begun within six (6) months from the date of issuance thereof, such permit shall expire. If the work described in any improvement location permit has not been substantially completed within two (2) years of the date of issuance thereof, such permit shall expire.

C. When a certificate of zoning compliance is required, no structure shall be erected on the land, and no change shall be made in the contours of the land, including any change in the course, width or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with or change adversely the drainage of such land, taking into account land development planned in the general vicinity under the Sections of this Title, without providing adequate drainage in connection therewith. In the administration of this requirement, the staff shall refer any application submitted to the City Engineer or other appropriate governmental unit for a determination in the matter. (Ord. No. 3, §4, 2-4-92; Prior Code §35-11)

### **Section 17.02.120     Occupancy Permits.**

A. It is unlawful to occupy or permit the occupancy of any structure hereafter created, erected, changed, converted, or wholly or partly altered or enlarged except for structures other than residences incidental to

## COLUMBUS ZONING ORDINANCE

agricultural operations until an occupancy permit shall have been issued therefor by the Department of Technical Code Enforcement.

B. A temporary occupancy permit may be issued in accordance with Chapter 17.54 for a period not exceeding six (6) months during alterations or partial occupancy of a structure pending its completion; provided, that such temporary occupancy permit includes such conditions and safeguards as will protect the health, safety and welfare of the occupants and the public.

C. When an occupancy permit is requested and all landscaping screens or buffers as required in this Title have not and cannot be installed due to weather or other conditions, the staff may issue an occupancy permit or certificate of zoning compliance provided that the party requesting such occupancy shall first submit a detailed landscaping plan conforming to the requirements of this Title. Such landscaping plan shall contain a schedule for the installation of all materials, and the applicant shall certify in writing that such schedule will be followed unless an extension is granted by the staff. All landscaping required under this Title must be installed before a Certificate of Occupancy is issued, unless a financial guarantee has been posed under the terms of Section 17.43.070. (Ord. No. 3, §4, 2-4-92; Prior Code §35.12; Ord. No. 49, §49, 12-5-95).

### **Section 17.02.130 Certificates of Zoning Compliance for New, Altered or Nonconforming Uses.**

A. No land shall be occupied or used, no excavation or construction started and no building or other structure hereafter erected, moved, added to, or structurally altered shall be occupied or used in whole or in part, for any purpose whatsoever, without a certificate of zoning compliance therefor. The staff may designate uses or circumstances for which the improvement location permit also serves as the zoning compliance certificate.

B. It shall be unlawful to use or occupy or permit the use or occupancy of any structure or premises, or both, or part thereof, for any of the following except for structures other than residences incidental to agricultural operations until a Certificate of Zoning Compliance shall have been issued therefor by the staff. Such certificate shall state that the proposed use of the building or land complies with the requirements of this Title.

1. Occupancy or use of any structure hereafter created, erected, changed, converted, or wholly or partly altered or enlarged.

2. Occupancy or use of vacant land, except for the raising of crops.

3. Change in the use of an existing structure to a different use.

4. Change in the use of land to a different use, except for the raising of crops.

5. Change in the use or character of a nonconforming use.

C. No certificates of zoning compliance shall be issued for any structure or use authorized by variance, special use, planned unit development, conditional use or other Sections of this Title unless the use, character and location thereof shall be in conformity with all requirements and conditions of the grant.

D. If the staff determines that the construction or development under any permit is not proceeding according to the applicable ordinance, this Code, site plan filed with such permit application or additional requirements or conditions upon which such permit was issued or is otherwise proceeding in violation of law, the permit may be revoked.

E. Certificates of zoning compliance issued on the basis of plans and applications approved by the staff authorize only the use, occupancy, arrangement and construction set forth in such approved plans and applications, and no other use, occupancy, arrangement or construction is permitted. Unless amended in accordance with this Chapter, any use, occupancy, arrangement or construction which is inconsistent with that authorized by certificate shall be deemed invalid, and continuation of such use, occupancy, arrangement or construction shall be deemed a violation of this Title, and punishable as provided by Section 17.02.230.

F. Any decision by staff relating to this Section may be appealed to the Board of Zoning Appeals in accordance with the rules and regulations concerning administrative appeals. Nothing in this Section shall be deemed to prevent an applicant or the holder of a certificate of zoning compliance from applying to the Board of Zoning Appeals for a variance or conditional use as provided by this Title. (Ord. No. 3, §4, 2-4-92; Prior Code § 35-13)

G. 1. Any zoning compliance certificate for a primary structure and/or use issued by the staff, unless otherwise stipulated on the face of the zoning compliance certificate, shall expire and become void six months after

## COLUMBUS ZONING ORDINANCE

the date of its granting unless the petitioners or his agent have substantially put into effect the use on the property for which the zoning compliance certificate was issued. All zoning compliance certificates shall expire within 30 days of issuance if the petitioner has not applied for an improvement location permit or building permit.

2. Any zoning compliance certificate for an accessory building and/or use issued by the staff, unless otherwise stipulated on the face of the zoning compliance certificate, shall expire and become void six months after the date of its granting unless the petitioner or his agent have substantially put into effect the use on the property for which the zoning compliance certificate was issued. All zoning compliance certificates shall expire within 30 days of issuance if the petitioner has not applied for an improvement location permit or building permit.

3. Any zoning compliance certificate for an accessory structure (sign etc.) issued by the staff, unless otherwise stipulated on the face of the zoning compliance certificate, shall expire and become void 90 days after the date of its granting unless the petitioner or his agent have substantially put into effect the use on the property for which the zoning compliance certificate was issued. All zoning compliance certificates shall expire within 30 days of issuance if the petitioner has not applied for an improvement location permit or building permit. (Ord. No. 52, §3,11-3-96)

### **Section 17.02.140 Commission to Adopt Rules of Procedure for Meetings.**

The Commission shall adopt rules of procedure concerning the filing of petitions, giving of notice, conduct of hearings and such other matters as may be necessary for the administration of its affairs. (Ord. No. 2239, §403.3; Prior Code, §35-14)

### **Section 17.02.150 Amendments-Responsibility of Council.**

It is further the intent of this Title that the responsibility of the Common Council in connection with this Title shall include the following:

A. The consideration and adoption or rejection of proposed amendments and special uses or the repeal of this Title as provided by law.

B. The right to direct the Commission to prepare amendments to this Title after formal written request, as provided by law.

The procedure for hearing and deciding questions of interpretation and enforcement that may arise from this Title shall be as stated in this Section and not necessitate any action by the Common Council. (Ord. No. 2239, §401.2; Prior Code, §35-15)

### **Section 17.02.160 Procedures Governing Amendments.**

The following rules, regulations and guidelines shall be followed in amending this Title:

A. The regulations, restrictions and boundaries set forth in this Title may from time to time be amended, supplemented, changed or repealed; in accordance with this section and Indiana law.

B. Amendments may be requested by the Common Council, or proposed by the Plan Commission or by the owners of fifty percent (50%) or more of the area involved in the petition. The Plan Commission must give notice and hold a public hearing on each proposed amendment. Notice shall be given in a manner prescribed in the Commission Rules of Procedure to interested parties as defined in these rules.

C. In preparing and considering proposals to amend the zoning ordinance, the Commission and Common Council shall pay reasonable regard to the following matters in accordance with state law (I.C. 36-7-4-603):

1. The comprehensive plan;
2. Current conditions and the character of current structures and uses in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction;
5. Responsible development and growth. (Ord. No. 47, §3, 11-3-96)

D. The Commission shall certify the proposal to the Common Council in accordance with law. (IC-36-7-600, et seq.)

## COLUMBUS ZONING ORDINANCE

E. The Common Council shall consider the recommendation, if any, of the Commission before acting on a proposal to amend the zoning ordinance. The Council shall act on the proposal as provided by Indiana law. (Ord. 88-14 §3 (part); 1988; Ord. 87-13 §2, 1987; Prior Code §35-16)

F. When considering an amendment to the zoning map (District AG to I-3), the Plan Commission may require or allow the petitioner to submit written commitments, as specified in IC 36-7-4-615, that restrict the use(s) and/or developmental standards of the proposed zoning district.

1. Initial Rezoning - Written commitments may be initiated by the Plan Commission, the petitioner, or by the Common Council.

a. In approving written commitments for developmental standards, the Council may stipulate that such commitments may not be modified by the Plan Commission without the Council's consent. In making the stipulation, the Council shall be deemed to be modifying the written commitments.

b. If the Council wishes to initiate or modify the written commitments recommended by the Plan Commission, the Council shall refer the new commitments or modifications to the Plan Commission for consideration. The Council or commission may require notice and a public hearing if either body regards such notice and hearing to be needed to afford adequate opportunity for public input.

c. After considering the new or modified conditions, the Plan Commission must agree or disagree with the Council's action.

d. If the Plan Commission agrees with the new or modified commitments, they take effect immediately.

e. If the Plan Commission disagrees with the new or modified commitments, the commission shall forward them to the Council with the reasons for disagreement. The commitments shall take effect only if the Council again votes to require said modified commitments.

2. Modifications or termination of commitments after initial zoning - The Plan Commission may modify or terminate written commitments relating to the development standards after notice is provided in accordance with the commissions rules of procedure. The modification may be initiated by the owner of the property, by the commission, or by the Council. The commitments to be modified are subject to the Council stipulation included in Section 17.02.160.F.1.a. In such a case such modification must be certified to the Common Council for review and approval. Only one modification to the written commitments can be approved by the Plan Commission per year.

3. Modifications or termination of commitments involving permitted uses may be allowed only through the same procedure as the initial rezoning. In approving, modifying, or terminating commitments, the Commission shall consider the factors listed in 17.02.160.C.

4. The written commitments shall be recorded in accordance with the I.C. 36-7-4-615. Recorded commitments are binding on the owner of the parcel, a subsequent owner of a parcel, and any person who acquires an interest in the parcel. An ordinance amending the zoning map which includes written commitments shall not be effective until the commitments are recorded. After the ordinance is adopted and the commitments are recorded, the zoning map shall be amended to indicate the new district designation with the letter "C" appended to indicate that commitments accompany the district designation. The commitments must be recorded within 90 days after the Council adopts the amendment, unless the Plan Commission grants an extension. In the event the commitments are not recorded within the specified time, the ordinance shall not take effect and shall be considered null and void.

5. A zoning compliance certificate shall not be issued for any property subject to written commitments unless the use and/or development on the property complies with the recorded written commitments.

6. Any violations associated with written commitments are subject to the standards of Section 17.02.230 of the Columbus Zoning Ordinance. (Ord. No. 47, §3, 11-13-96)

### **Section 17.02.170   Appealing Decisions of Administrators and Board of Zoning Appeals.**

A. An appeal may be taken to the Board of Zoning Appeals by any person aggrieved by an administrative decision, in accordance with Section 17.61.050.

B. Any person aggrieved by any decision of the Board of Zoning Appeals may seek Court review by certiorari procedure, as set forth in Section 17.61.100. (Ord. No. 2239, §403.2; Prior Code, §35-17)

## COLUMBUS ZONING ORDINANCE

### **Section 17.02.180 Territorial Jurisdiction of Chapter.**

A. This Title shall apply to all incorporated land within the City and the contiguous unincorporated land within the territorial jurisdiction of the City Plan Commission as authorized in accordance with the provisions of applicable State law.

B. A map indicating such territorial jurisdiction of current adoption shall be filed for public examination in the office of the Plan Commission, the City Clerk-Treasurer and the County Recorder. (Ord. No. 2239, §103; Prior Code, §35-18)

### **Section 17.02.190 Interpretation of Title; Effect of Title on Contracts.**

A. In their interpretation and application, the Sections of this Title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, comfort, morals, convenience and general welfare.

B. It is not intended by this Title to interfere with, abrogate or annul any easements, covenants or other agreements between parties nor is it intended by the Title to interfere with, abrogate or annul any laws or ordinances, other than expressly repealed hereby, or any rules, regulations or permits previously adopted or issued, and not in conflict with any of the Sections of this Title, or which shall be adopted or provided, pursuant to law, relating to the use of buildings or land; provided, that where this Title imposes a greater restriction upon the use of buildings or land than are required or imposed by such easements, covenants or agreements between parties, or by such laws, ordinances, rules, regulations or permits, the provisions of this Title shall govern.

Nothing in this Title shall diminish the legal effect of private restrictions which are more stringent than provisions of this Title. (Ord. No. 2239, §104; Ord. No. 3030, §3; Prior Code, §35-19)

### **Section 17.02.200 Zoning of Minor Essential Services and Rights-of-Way.**

A. Minor essential services, as defined in Section 17.02.020, are permitted in all zoning districts.

B. Zoning of railroad and other transportation rights-of-way shall be interpreted as set forth in Section 17.02.050 if there is uncertainty. Rights-of-way may be located within any zoning district. (Ord. No. 89-50 §3 (part); Prior Code §35-20)

### **Section 17.02.210 Performance Standards Generally.**

All uses established or placed into operation after the effective date of this Title (8-30-71) shall comply with the following performance standards in the interests of protecting the public health, safety, and general welfare and lessening injury to property. No such use shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance or interferes with the reasonable enjoyment of neighboring properties. No use in existence on the effective date of this Title shall be so altered or modified to conflict with these standards:

A. Air Pollution. No use shall discharge across lot lines fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or conflict with public air quality standards.

B. Electrical disturbance. No use shall cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity.

C. Fire protection. Fire fighting equipment and prevention measures acceptable to the City Fire Department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.

D. Heat and glare. No use shall produce heat or glare in such a manner as to create a hazard to neighboring property, nor shall any such heat or glare interfere with the reasonable enjoyment of neighboring property.

E. Noise. No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Such noise shall be muffled or otherwise controlled so as not to become detrimental; provided, that public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.

F. Odor. No use shall emit across the lot lines malodorous gas or matter in such quantity as to be readily detectable at any point along such lot lines.

## COLUMBUS ZONING ORDINANCE

G. Vibration. No use shall cause vibrations or concussions detectable beyond lot lines without the aid of instruments.

H. Waste matter. No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety and welfare standards and regulations.

I. Water pollution. No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards. (Ord. No. 2239, §204; Ord. No. 3, §4, 2-4-92; Prior Code, §35-21)

### **Section 17.02.220 Compliance With Title; Procedure to Zone Annexed Territory.**

The regulations set forth by this Title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as follows:

A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations specified in this Title for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered to do one or more of the following:

1. Exceed the height or bulk required.

2. Accommodate or house a greater number of families than required.

3. Occupy a greater percentage of lot area than required.

4. Have narrower or smaller lot sizes and widths, front yards, side yards, rear yards or other open spaces than herein required; or in any other manner contrary to the Sections of this Title.

C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Title shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Title shall be reduced in dimension or area below the minimum requirements set forth in this Title. Yards or lots created after the effective date of this Title shall meet at least the minimum requirements established by this Title.

E. All territory which may be hereafter annexed to the City or may be hereafter included within the jurisdictional area thereof and not heretofore classified by the Title shall, effective the date of such annexation or jurisdiction extension, be considered to be in the AG Agricultural District until otherwise classified by amendment to this Title. (Ord. 88-14 §3 (part); Prior Code §35-22)

### **Section 17.02.230 Complaints, Violations and Penalties.**

A. Whenever a violation of this Title occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. Such official shall properly record such complaint and immediately investigate. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, such official shall file with the City Attorney a complaint against such person requesting action thereon as provided by this Title and in accordance with law.

B. Any buildings erected, raised or converted, or land or premises used in violation of any section of this Title or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.

C. Any person who violates any Section of this Title or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this Title, shall be guilty of an ordinance violation and upon conviction, shall be fined in a sum not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for each day's violation.

D. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

## COLUMBUS ZONING ORDINANCE

E. The Plan Commission, the Board of Zoning Appeals or any designated administrative official may institute a suit or injunction in the Circuit or Superior Court of the County to restrain any person from violating the Sections of this Title.

F. The Plan Commission or the Board of Zoning Appeals may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the Sections of this Title or to make the same comply with its terms. If such Commission or Board is successful in its suit, the respondent shall bear the costs of the action including reasonable attorney's fees.

G. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 2239, §405; Prior Code, §35-23)

### CHAPTER 17.04 AG AGRICULTURAL DISTRICT

#### **Section 17.04.010 Intention of District.**

The AG Agricultural District is designated for agricultural uses and is intended to protect rural areas from urban encroachment until such areas are adaptable to orderly urban expansion. Residential development is limited; this district is not intended as a large-lot residential zone. (Ord. No. 2239, §207; Ord. No. 25, §3, 9-7-99; Prior Code, §35-24) It is the intent of this ordinance to allow the continuation of existing agricultural operations and to protect the use and value of both agricultural and non-agricultural land within the jurisdiction of the Commission. (Ord. No. 24, 6-7-94)

#### **Section 17.04.020 Permitted Uses.**

Within any AG Agricultural District, no building, structure or premises shall be used, arranged or designed to be used except for one (1) or more of the following uses:

A. Agricultural uses, including a single-family dwelling, crop raising, truck gardens, greenhouses and plant nurseries, and accessory uses normally associated with such agricultural operations; provided, that such uses shall not include the following unless a conditional use is granted by the Board of Zoning Appeals: (Ord. No. 24-1994, §3, 6-7-94)

1. The conduct of retail business or commercial products on the premises, except as provided under conditional use of this Section.

2. Confinement or concentrated agricultural operations such as cattle or hog feeding operations, poultry or fish hatcheries, dog kennels, fur or pelt production, raising of animals for laboratory or pharmaceutical purposes or any other such agricultural operation where animals, fowl or fish are raised, bred or maintained for sale, except as provided under conditional use of this Section. (Ord. No. 45, §3, 11-2-93)

3. The keeping of animals other than non-farm domestic animals on a parcel or lot within or adjacent to an urban area, except as provided for under Section 17.52.040 L. (Ord. No. 45, §3, 11-2-93, Ord. No. 24, §3, 6-7-94)

B. Soil, water, fish, forest and wildlife conservation uses.

C. Accessory uses.

D. Temporary uses. (Ord. No. 14, 1995, §3, 3-5-95)

E. A Type I or Type II manufactured home as a temporary residence, for a period not to exceed two (2) years, on a parcel where a single-family dwelling is under construction or major renovation, as determined by the Chief Code Enforcement Officer. (Ord. No. 14, 1995, §3, 3-5-95)

F. Home occupations. (Ord. No. 2239, §207.1; Ord. No. 3004, §4; Prior Code, §35-25; Ord. 93-45 §3, 1993)

G. Residential subdivisions designed for the raising or keeping of animals and approved by the Plan Commission under the terms of the Subdivision Control Ordinance. (Ord. No. 24, §3, 6-7-94)

H. Expansion of legally nonconforming uses involving the raising of farm animals or confined feeding operations, provided that the use complies with the development standards contained in Section 17.61.070 D 1-4. In the event that the legal nonconforming use is located closer to adjoining properties than permitted by Section 17.61.070 D 1, new structures associated with such use shall be no closer to the property line than the existing structures. For purposes of this Section, expansion includes increasing the number of animals, increasing the

## COLUMBUS ZONING ORDINANCE

number of structures to house and care for the animals, replacing or enlarging existing structures, increasing the amount of area devoted to animals on the same lot or parcel of land containing the existing operation, or increasing the amount of time the animals are kept on the property. (Ord. No. 24, §3, 6-7-94)

### **Section 17.04.030 Conditional Use.**

Conditional use limited to the following shall be permitted in the AG District upon approval by the Board of Zoning Appeals in accordance with the regulations in Section 17.61.060:

- A. Roadside stand business, commercial processing of agricultural products.
- B. Confinement or concentrated agricultural operations, including cattle or hog feeding operations, poultry or fish hatcheries, dog or cat kennels, fur or pelt products or raising of animals for laboratory or pharmaceutical purposes.
- C. Type I or II manufactured home as a temporary use, for a period of no more than four years, on a parcel which already contains a dwelling. Type I or II manufactured homes must be located in the side or rear yard, and must be used either as a residence for a person acting as a care-provider for someone living in the other dwelling unit, or by a person who is being cared for by someone living in the other dwelling unit on the parcel. At least one of the occupants must be over the age of 65, or in ill health or at a level of dependency where on-site care is necessary, as certified by a physician. After a two-year period, the petitioner must update documentation of the continuing medical condition to staff. The Type I or II manufactured home must be removed as soon as it is no longer needed for the care arrangement. (Ord. No. 14, 1995, §3, 3-5-95)
- D. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070.
- E. The keeping of farm animals on a parcel or lot within or adjacent to an urban area in accordance with Section 17.61.070 D. (Ord. No. 92-11 §3 (par), 1992; Ord. No. 89-9 §3, 1988; Ord. No. 45, §3, 11-2-93, Ord. No. 24, §3, 6-7-94, Ord. No. 25, §3, 9-7-99)
- F. Bed and breakfast use; provided that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 A. (Ord. No. 4, §3, 2-1-94)
- G. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56. (Ord. No. 4, §3, 2-1-94)
- H. Commercial agricultural uses, such as wineries or cider mills; rural retail businesses such as farm markets, craft shops, and similar uses compatible with agricultural and rural areas. (Ord. No. 4, §3, 2-1-94)

### **Section 17.04.040 Lot Size.**

The minimum lot sizes and dimensions in an AG District shall be as follows:

- A. Area: One (1) acre.
- B. Width: One hundred fifty (150) feet. (Ord. No. 2239, §207.3; prior Code, §35-27)
- C. Limitation on Subdivision: After the effective date of this ordinance no more than two residential lots shall be permitted to be subdivided from any parent tract over any period of time. The parent tract remainder shall contain at least 10 acres for each lot subdivided under this section. (Ord. No. 25, §3, 9-7-99)

### **Section 17.04.050 Setback Lines.**

The minimum setback lines for a lot in an AG District shall be as follows:

- A. Front: As regulated in Section 17.42.020.
- B. Side and rear: Five (5) feet for a structure up to twenty (20) ft. in height, seven and one-half (7.5) ft. for a structure higher than twenty (20) feet but no more than thirty (30) feet, ten (10) feet for any structure above thirty (30) feet in height. (Ord. No. 11, §3, 3-3-92; Ord. No. 45, §3, 11-2-93; Prior Code §5-28)

### **Section 17.04.060 Height Restrictions.**

The maximum height in an AG District shall be thirty (30) feet for residential buildings. (Ord. No. 2239, §207.5; Prior Code, §35-29)

## COLUMBUS ZONING ORDINANCE

### **Section 17.04.070 Lot Coverage.**

The maximum lot coverage in an AG District shall not exceed twenty-five (25%) percent of the lot area. (Ord. No. 2239, §207.6; Prior Code, §35-30)

### **Section 17.04.080 Off-Street Parking.**

The off-street parking space for an AG District shall be two (2) spaces per dwelling unit. (Ord. No. 2239, §207.7; Prior Code, §35-31)

### **Section 17.04.090 Signs.**

The signs in an AG District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §207.8; Prior Code, §35-32; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.06 RESERVED**

(Ord. No. 25, §3, 9-7-99)

## **CHAPTER 17.08**

### **R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

#### **Section 17.08.010 Intention of District.**

The R-1 Single-Family Residential District is intended for moderate density single-family residential development and is adaptable to urban or suburban locations. (Ord. No. 2239, §209; Prior Code, §35-41)

#### **Section 17.08.020 Permitted Uses.**

Within any R-1 Single-Family Residential District, no building, structure or premises shall be used, arranged or designed to be used except for one (1) or more of the following uses:

- A. Single-family dwelling.
- B. Accessory uses.
- C. Temporary uses.
- D. Home occupations.
- E. Group homes. (Ord. No. 2239, §209.1; Ord. No. 2920, §3; Ord. No. 3004, §4; Prior Code, §35-42)

#### **Section 17.08.030 Conditional Use.**

The following conditional use shall be permitted in the R-1 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

A. Adult care home; provided that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, §1, 1-7-86; Ord. 92-28 §3 (part), 1992; Prior Code §35-34a, Ord. No. 14, 1999 §3, 5-18-99)

B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56. (Ord. No. 4, §3, 2-1-94)

C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

#### **Section 17.08.040 Connection to Water and Sewer Facilities.**

In an R-1 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage

## COLUMBUS ZONING ORDINANCE

disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99) (Ord. No. 21, 7-1-03)

### **Section 17.08.050 Lot Size.**

The density, lot sizes and dimensions in an R-1 District shall be as follows:

A. Density: The maximum gross density in the R-1 District shall be 2.5 dwelling units per acre. In previously platted or developed areas, the minimum lot size shall be the area of the smallest legal lot of record within the block or within 300-feet of the subject parcel, whichever is less, provided that such lot is at least 80% of the average lot size within the block or 300-foot distance. (Ord. No. 25, §3, 9-7-99)

B. Width. Ninety (90) feet; provided, that any plat of a subdivision consisting of five (5) lots or more submitted for plat approval in accordance with the Subdivision Control Ordinance may reduce such minimum width of twenty percent (20%) of the total number of lots within such plat to the extent of twenty percent (20%) below such ninety- (90) foot requirement; provided further, that each lot shall have at least forty-five (45) feet of frontage on a street. In improved blocks as defined in Sec. 17.42.020, the width and frontage may be reduced to the average frontage for all lots in the block. (Ord. No. 2239, §209.2; Ord. No. 25, §3, 9-7-99; Prior Code, §35-43)

### **Section 17.08.060 Setback Lines.**

The minimum setback lines in an R-1 District shall be as follows:

A. Front: Fifty feet from centerline of the street. If the garage is set back at least 10 feet behind the façade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in Sec. 17.42.020, the minimum setbacks shall be in accordance with 17.42.020 C.

B. Side and rear. Five (5) feet. (Ord. No. 2239, §209.3; Prior Code, §35-44; Ord. No. 11, §3, 3-3-92; Ord. No. 25, §3, 9-7-99 )

### **Section 17.08.070 Height Restriction.**

The maximum height in an R-1 District shall be as follows:

A. Primary building: Thirty (30) feet.

B. Accessory building. Fifteen (15) feet. (Ord. No. 2239, §209.4, Prior Code, §35-45)

### **Section 17.08.080 Lot Coverage.**

The maximum lot coverage in an R-1 District shall not exceed thirty (30%) percent of the lot area. (Ord. No. 2239, §209.5; Prior Code, §35-46)

### **Section 17.08.090 Off-Street Parking.**

The off-street parking in an R-1 District shall be two (2) spaces per dwelling unit, and as further regulated in Chapter 17.44 of this Title. (Ord. No. 2239, §209.6; Prior Code, §35-47)

### **Section 17.08.100 Signs.**

The signs in an District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §209.7; Prior Code, §35-48; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.10**

### **R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

#### **Section 17.10.010 Intention of District.**

The R-2 Single-Family Residential District is intended to recognize the existence of substantial areas presently committed to moderate-density single-family residential development. (Ord. No. 2239, §210; Prior Code, §35-49)

#### **Section 17.10.020 Permitted Uses.**

Within any R-2 Single-Family Residential District, no building, structure or premises shall be used, arranged or designed to be used except for one (1) or more of the following uses:

## COLUMBUS ZONING ORDINANCE

- A. Single-family dwelling.
- B. Accessory uses.
- C. Temporary uses.
- D. Home occupations.
- E. Group homes. (Ord. No. 2239, §210.1; Ord. No. 2920, §4; Ord. No. 3004, §4; Prior Code, §35-50)

### **Section 17.10.030 Conditional Use.**

The following conditional uses shall be permitted in the R-2 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, §1, 1-7-86, Ord. No. 14, 1999 §3, 5-18-99)
- B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56. (Ord. No. 4, §, 2-1-94)
- C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

### **Section 17.10.040 Connection to Water and Sewer Facilities.**

In an R-2 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99) (Ord. No. 21, 7-1-03)

### **Section 17.10.050 Lot Size.**

The minimum density, lot sizes and dimensions in an R-2 District shall be as follows:

- A. Density: The maximum gross density in the R-2 District shall be 3.5 dwelling units per acre. In previously platted or developed areas, the minimum lot size shall be the area of the smallest legal lot of record within the block or within 300-feet of the subject parcel, whichever is less, provided that such lot is at least 80% of the average lot size within the block or 300-foot distance. (Ord. No. 25, §3, 9-7-99)
- B. Width. Seventy (70) feet; provided, that any plat of a subdivision consisting of five (5) or more submitted for plat approval in accordance with the Subdivision Control Ordinance may reduce such minimum width of twenty percent (20%) of the total number of lots within such plat to the extent of twenty percent (20%) below such seventy-(70) foot requirement; provided further, that each lot shall have at least forty (40) feet of frontage on a street. In improved blocks as defined in Sec. 17.42.020, the width and frontage may be reduced to the average frontage for all lots in the block. (Ord. No. 2239, §210.2; Ord. No. 25, §3, 9-7-99; Prior Code, §35-51)

### **Section 17.10.060 Setback Lines.**

The minimum setback lines in an R-2 District shall be as follows:

- A. Front: Fifty feet from centerline of the street. If the garage is set back at least 10 feet behind the façade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in Sec. 17.42.020, the minimum setbacks shall be in accordance with 17.42.020 C.
- B. Side and rear: Five (5) feet. (Ord. No. 2239, §210.3; Prior Code, §35-52; Ord. No. 11, §3, 3-3-92; Ord. No. 25, §3, 9-7-99)

### **Section 17.10.070 Height Restrictions.**

The maximum height in an R-2 District shall be as follows:

- A. Primary building. Thirty (30) feet.
- B. Accessory building. Fifteen (15) feet. (Ord. No. 2239, §210.4; Prior Code, §35-53)

## COLUMBUS ZONING ORDINANCE

### **Section 17.10.080 Lot Coverage.**

The maximum lot coverage in an R-2 District shall not exceed thirty-five (35) percent of the lot area. (Ord. No. 2239, §210.5; Prior Code, §35-54)

### **Section 17.10.090 Off-Street Parking.**

The off-street parking space in an R-2 District shall be two (2) spaces per dwelling unit, and as further regulated in Chapter 17.44. (Ord. No. 2239, §210.6; Prior Code, §35-55)

### **Section 17.10.100 Signs**

The signs in an R-2 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §210.7; Prior Code, §35-56; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.12 R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT**

### **Section 17.12.010 Intention of District .**

The R-3 Single-Family Residential District is intended primarily to provide for urban-density residential development and allows for more choice in dwelling unit types. (Ord. No. 2239, §211; Prior Code, §35-57)

### **Section 17.12.020 Permitted Uses.**

Within any R-3 Single-Family Residential District, no building, structure or premises shall be used, arranged or designed to be used except for one (1) or more of the following uses:

- A. Single family dwelling.
- B. Reserved. (Ord. No. 2, 2000, §3, 01-18-00)
- C. Accessory uses.
- D. Temporary uses.
- E. Home occupations.
- F. Group homes. (Ord. No. 2239, §211.1, Ord. No. 2920, §5; Ord. No. 3004, §4; Prior Code, §35-58)

### **Section 17.12.030 Conditional Use.**

The following conditional uses shall be permitted in the R-3 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B) (Ord. 92-28 § 3; Ord. No. 56, 1986, §1, 1-7-86, Ord. No. 14, 1999 §3, 5-18-99)
- B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56.030 (Ord. No. 4, §III, 2-1-94)
- C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

### **Section 17.12.040 Connection to Water and Sewer Facilities.**

In an R-3 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 2239, §211.2(b); Ord. No. 25, §3, 9-7-99; Prior Code, §35-59; Ord. No. 21, 7-1-03)

## COLUMBUS ZONING ORDINANCE

### **Section 17.12.050 Lot Size.**

The minimum lot sizes and dimensions in an R-3 District shall be as follows:

A. Density: The maximum gross density in the R-3 District shall be five dwelling units per acre. In previously platted or developed areas, the minimum lot size shall be the area of the smallest legal lot of record within the block or within 300-feet of the subject parcel, whichever is less, provided that such lot is at least 80% of the average lot size within the block or 300-foot distance. (Ord. No. 25, §3, 9-7-99)

B. Width. Sixty (60) feet per dwelling unit; provided, that any plat of a subdivision consisting of five (5) lots or more submitted for plat approval in accordance with the Subdivision Control Ordinance, may reduce such minimum width of twenty percent (20%) of the total number of lots within such plat to the extent of ten percent (10%) below such sixty- (60) foot requirement; provided, further, that each lot shall have at least thirty-five (35) feet of frontage on a street. In improved blocks as defined in Sec. 17.42.020, the width and frontage may be reduced to the average frontage for all lots in the block. (Ord. No. 2239, §211.2; Ord. No. 25, §3, 9-7-99; Prior Code, §35-60)

### **Section 17.12.060 Setback Lines.**

The minimum setback lines in an R-3 District shall be as follows:

A. Front: Fifty feet from the centerline of the street. If the garage is set back at least 10 feet behind the façade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in Sec. 17.42.020, the minimum setbacks shall be in accordance with Sec. 17.42.020C.

B. Side and rear: Five (5) feet. (Ord. No. 2239, §211.3; Prior Code, §35-61; Ord. No. 11, §3, 3-3-92; Ord. No. 25, 9-7-99)

### **Section 17.12.070 Height Restrictions.**

The maximum height in an R-3 District shall be as follows:

A. Primary building: Thirty (30) feet.

B. Accessory building. Fifteen (15) feet. (Ord. No. 2239, §211.4; Prior Code, §35-62)

### **Section 17.12.080 Lot Coverage.**

The maximum coverage in an R-3 District shall not exceed forty percent (40%) of the lot area. (Ord. No. 2239, §211.5; Prior Code, §35-63)

### **Section 17.12.090 Off-Street Parking.**

The off-street parking space in an R-3 District shall be two (2) spaces per dwelling unit, and as further regulated in Chapter 17.44. (Ord. No. 2239, §211.6; Prior Code, §35-64)

### **Section 17.12.100 Signs.**

The signs in an R-3 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §211.7; Prior Code, §35-65; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.14 R-4 SINGLE-FAMILY RESIDENTIAL DISTRICT**

### **Section 17.14.010 Intention of District.**

The R-4 Single-Family Residential District is intended primarily to provide for urban-density residential development characterized by small lots, detached housing and a corresponding intensity of public services to serve the anticipated population. (Ord. No. 2239, §212; Prior Code, §35-66)

## COLUMBUS ZONING ORDINANCE

### **Section 17.14.020 Permitted Uses.**

Within any R-4 Single-Family Residential District, no building, structure or premises shall be used, arranged or designed to be used except for one (1) or more of the following uses:

- A. Single-family dwelling.
- B. Reserved. (Ord. No. 2, 2000, §3, 01-18-00)
- C. Accessory uses.
- D. Temporary uses.
- E. Home occupations.
- F. Group homes. (Ord. No. 2239, §212.1; Ord. No. 2920, §6; Ord. No. 3004, §4; Prior Code, §35-67)

### **Section 17.14.030 Conditional Use.**

The following conditional uses shall be permitted in the R-4 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, §1, 1-7-86, Ord. No. 14, 1999 §3, 5-18-99)
- B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56.030. (Ord. No. 4, §III, 2-1-94)
- C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

### **Section 17.14.040 Connection to Water and Sewer Facilities.**

In an R-4 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. # 2239, §212.2(a); Ord. No. 25, §3, 9-7-99; Prior Code, §35-68; Ord. No. 21, 7-1-03 ).

### **Section 17.14.050 Lot Size.**

The minimum density, lot sizes and dimensions in an R-4 District shall be as follows:

- A. Density: The maximum gross density in the R-4 District shall be seven dwelling units per acre. In previously platted or developed areas, the minimum lot size shall be the area of the smallest legal lot of record within the block or within 300-feet of the subject parcel, whichever is less, provided that such lot is at least 80% of the average lot size within the block or 300-foot distance. (Ord. No. 25, §3, 9-7-99)
- B. Width: Fifty (50) feet per dwelling unit; provided, that each lot shall have at least thirty (30) feet of frontage on a street. In improved blocks as defined in Sec. 17.42.020, the width and frontage may be reduced to the average frontage for all lots in the block. (Ord. No. 2239, §212.2; Ord. No. 25, §3, 9-7-99; Prior Code, §35-69)

### **Section 17.14.060 Setback Lines.**

The minimum setback lines in an R-4 District shall be as follows:

- A. Front: Fifty feet from the centerline of the street. If the garage is set back at least 10 feet behind the façade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in sec. 17.42.020, the minimum setbacks shall be in accordance with Sec. 17.42.020C.
- B. Side and rear: Five (5) feet. (Ord. No. 2239, §212.3; Prior Code, §35-70; Ord. No. 11, §3, 3-3-92; Ord. No. 25, 9-7-99)

### **Section 17.14.070 Height Restrictions.**

## COLUMBUS ZONING ORDINANCE

The maximum height in an R-4 District shall be as follows:

- A. Primary building. Thirty (30) feet.
- B. Accessory building. Fifteen (15) feet. (Ord. No. 2239, §212.4; Prior Code, §36-71)

### **Section 17.14.080 Lot Coverage.**

The maximum lot coverage in an R-4 District shall not exceed forty-five percent (45%) of the lot area. (Ord. No. 2239, §212.5; Prior Code, §35-72)

### **Section 17.14.090 Off-Street Parking.**

The off-street parking space in an R-4 District shall be two (2) spaces per dwelling unit, and as further regulated in Section 17.44. (Ord. No. 2239, §212.6; Prior Code, §35-74)

### **Section 17.14.100 Signs.**

The signs in an R-4 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §212.7; Prior Code, §35-74; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.16 R-5 URBAN RESIDENTIAL DISTRICT**

### **Section 17.16.010 Intention of District.**

The R-5 Urban Residential District is intended primarily for urban low-rise, residential development of detached, attached or semi-attached dwellings in locations where a high degree of accessibility and public services is present. It is intended to accommodate experimental and diverse types of housing, such as urban dwellings, as defined herein. (Ord. No. 2239, §213; Prior Code, §35-75, Ord. No. 14, 1995, §3, 3-5-95)

### **Section 17.16.020 Permitted Uses.**

Within any R-5 Urban Residential District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses: (Ord. No. 14, §3, 3-5-95)

- A. Multi-family dwelling.
- B. Urban dwelling.
- C. Accessory uses.
- D. Temporary uses.
- E. Home occupations.
- F. Group homes. (Ord. No. 2239, §213.1; Ord. No. 2920, §7; Ord. No. 3004, §4; Prior Code, §35-76)

### **Section 17.16.030 Conditional Use.**

The following conditional uses shall be permitted in the R-5 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, §1, 1-7-86, Ord. No. 14, 1999 §3, 5-18-99)
- B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56.030. (Ord. No. 4, §III, 2-1-94)
- C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

### **Section 17.16.040 Connection to Water and Sewer Facilities.**

In an R-5 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels

## COLUMBUS ZONING ORDINANCE

of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 2239, §213.2(b); Ord. No. 25, §3, 9-7-99; Prior Code, §35-77; Ord. No. 21, 7-1-03)

### **Section 17.16.050 Lot or Project Size.**

The minimum lot or project size in an R-5 District shall be as follows:

- A. Area: Five (5) acres.
- B. Frontage: Each project shall have at least three hundred (300) feet of frontage on a street. (Ord. No. 2239, §213.2; Prior Code, §35-78)
- C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.16.060 Setback Lines.**

The minimum setback lines in an R-5 District shall be as follows:

- A. Front: Fifty feet from the centerline of the street. If the garage is set back at least 10 feet behind the facade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in Sec. 17.42.020, the minimum setbacks shall be in accordance with Sec. 17.42.020 C. (Ord. No. 25, §3, 9-7-99)
- B. Side and rear: Thirty (30) feet wherever the multi-family project or lot abuts adjoining perimeter property. Five (5) feet. (Ord. No. 11, §3, 3-3-92, Ord. No. 14, §3, 3-5-95, Ord. No. 25, §3, 9-7-99)
- C. Distance between buildings. In projects containing two (2) or more buildings, minimum distance between all buildings shall be provided in accordance with Section 17.42.030. (Ord. No. 2239, §213.3; Prior Code, §35-79)

### **Section 17.16.070 Height Restrictions.**

The maximum height in an R-5 District shall be as follows:

- A. Primary building: Thirty-five (35) feet.
- B. Accessory building: Twenty (20) feet. (Ord. No. 2239, §213.4; Prior Code, §35-80)

### **Section 17.16.075 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.16.080 Open Space.**

The minimum of 3.85 square feet of open space shall be provided for each one (1) square foot of floor area in an R-5 District. (Ord. No. 2239, §213.5; Prior Code, §35-81)

### **Section 17.16.090 Floor Area.**

The total floor area of all buildings shall not exceed twenty percent (20%) of the land area in an R-5 District. (Ord. No. 2239, §213.6; Prior Code, §35-81)

### **Section 17.16.100 Off-Street Parking.**

The minimum off-street parking space in an R-5 District shall be two (2) spaces per dwelling unit, and as further regulated in Section 17.44. (Ord. No. 2239, §213.7; Prior Code, §35-83; Ord. No. 50, §3, 11-6-91)

### **Section 17.16.110 Signs.**

The signs in an R-5 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §213.8; Prior Code, §35-84; Ord. No. 94-41, §3, 10-5-94)

## CHAPTER 17.18

## COLUMBUS ZONING ORDINANCE

### R-6 MULTIFAMILY RESIDENTIAL DISTRICT

#### **Section 17.18.010 Intention of District.**

The R-6 Multi-Family Residential District is designed to provide a wide range of dwelling unit types, to perform a land use buffer function and to recapture bypassed urban land where adequate public services are present. (Ord. No. 2239, §214; Prior Code, §35-85)

#### **Section 17.18.020 Permitted Uses.**

Within any R-6 Multi-Family Residential District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Single-family dwelling.
- B. Two-family dwelling.
- C. Multi-family dwelling.
- D. Accessory uses.
- E. Temporary uses.
- F. Home occupations.
- G. Group homes. (Ord. No. 2239, §214.1; Ord. No. 2920, §8; Ord. No. 3004, §4; Prior Code, §35-86)

#### **Section 17.18.030 Conditional Use.**

The following conditional uses shall be permitted in the R-6 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Bed and breakfast use; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (A). (Ord. No. 19, 1985, 4-2-85)
- B. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, Ord. No. 14, 1999 §3, 5-18-99)
- C. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56.030 (Ord. No. 4, §III, 2-1-94)
- D. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

#### **Section 17.18.040 Connection to Water and Sewer Facilities.**

In an R-6 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 2239, §214.2(b); Ord. No. 25, §3, 9-7-99; Prior Code, §35-87; Ord. No. 21, 7-1-03)

#### **Section 17.18.050 Lot Size.**

The minimum density or lot size in an R-6 District shall be as follows:

- A. Area.
  - 1. Single-family dwelling: Density: The maximum gross density for single-family dwellings shall not exceed seven dwelling units per acre. In previously platted or developed areas, the minimum lot size shall be the area of the smallest legal lot of record within the block or within 300-feet of the subject parcel, whichever is less, provided that such lot is at least 80% of the average lot size within the block or 300-foot distance. (Ord. No. 25, §3, 9-7-99)
  - 2. Two-family dwelling: Six thousand (6,000) square feet.
  - 3. Multifamily dwelling: Two thousand (2,000) square feet per unit.

## COLUMBUS ZONING ORDINANCE

B. Frontage: Fifty (50) feet. In improved blocks as defined in Sec. 17.42.020, the width and frontage may be reduced to the average frontage for all lots in the block. (Ord. No. 2239, §214.2; Ord. No. 25, §3, 9-7-99; Prior Code, §35-88)

C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.18.060 Setback Lines.**

The minimum setback lines in an R-6 District shall be as follows:

A. Front: As regulated in Section 17.42.020, except that for single-family dwellings, the front setback shall be fifty feet from the centerline of the street. If the garage is set back at least 10 feet behind the facade of the dwelling, the front setback for the dwelling may be reduced to thirty-five feet from the centerline of the street. In improved blocks as defined in Sec. 17.42.020, the minimum setbacks shall be in accordance with Sec. 17.42.020 C. .

B. Side and rear: Five (5) feet for a structure up to twenty (20) ft. in height, seven and one-half (7.5) feet for a structure higher than twenty (20) feet but no more than thirty (30) feet, ten (10) feet for any structure above thirty (30) feet in height (height measured from grade to peak of roof). (Ord. No. 11, §3, 3-3-92)

C. Distance between buildings. In projects containing two (2) or more buildings, minimum distance between all buildings shall be provided in accordance with Section 17.42.030. (Ord. No. 2239, §214.3; Prior Code, §35-89)

### **Section 17.18.070 Height Restrictions.**

The maximum height in an R-6 District shall be as follows:

A. Primary building: Thirty-five (35) feet.

B. Accessory building: Twenty (20) feet. (Ord. No. 2239, §214.4, Prior Code, §35-90)

### **Section 17.18.075 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. Landscape plans for multifamily developments are subject to Landscape Review Committee review and approval. (Ord. No. 49, §49, 12-5-95, Ord. No. 34, §3, 7-1-97)

### **Section 17.18.080 Open Space.**

In an R-6 District, two (2) square feet of open space shall be provided for each one (1) square foot of floor area. (Ord. No. 2239, §214.5; Prior Code, §35-91)

### **Section 17.18.090 Floor Space.**

The total floor area of all buildings shall not exceed forty percent (40%) of the land area in an R-6 District. (Ord. No. 2239, §214.6; Prior Code, §35-92)

### **Section 17.18.100 Off-Street Parking.**

The minimum off-street parking space in an R-6 District shall be one and one-half (1-1/2) spaces per dwelling unit, and as further regulated in Section 17.44. (Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95.)

### **Section 17.18.110 Signs.**

The signs in an R-6 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §214.8; Prior Code, §35-94; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.20 R-7 MULTI-FAMILY RESIDENTIAL DISTRICT**

### **Section 17.20.010 Intention of District.**

## COLUMBUS ZONING ORDINANCE

The R-7 Multi-Family Residential District is intended for urban low-rise multi-family development of a high-density nature where such land use is compatible with available public services. (Ord. No. 2239, §215; Prior Code, §35-95)

### **Section 17.20.020 Permitted Uses.**

Within any R-7 Multi-Family Residential District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any residential use permitted by right in the R-6 District, and the development standards thereof. (Ord. No. 19, 1985, 4-2-84).
- B. Multi-family dwellings.
- C. Accessory uses.
- D. Temporary uses.
- E. Home occupations.
- F. Group homes. (Ord. No. 2239, §215.1; Ord. No. 2920, §9; Ord. No. 3004, §4; Prior Code, §35-96)

### **Section 17.20.030 Conditional Use.**

The following conditional use shall be permitted in the R-7 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Adult care home; provided, that such use is incidental to the primary use as a residence and that it is in accordance with the development standards set forth in Section 17.61.070 (B). (Ord. No. 56, 1986, §1, 1-7-86, Ord. No. 14, 1999 §3, 5-18-99)
- B. Home occupation which does not comply with the standards, prohibitions, and restrictions contained in Section 17.56.030. (Ord. No. 4, §III, 2-1-94)
- C. Model home for residential development; provided that such use is in accordance with the development standards set forth in Section 17.61.070 (E).

### **Section 17.20.040 Connection to Water and Sewer Facilities.**

In an R-7 District, that attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 2239, §215.2(b); Ord. No. 25, §3, 9-7-99; Prior Code, §35-97; Ord. No. 21, 7-1-03)

### **Section 17.20.050 Lot or Project Size.**

The minimum lot or project size in an R-7 District shall be as follows:

- A. Area: Fifteen hundred (1,500) square feet per unit.
- B. Frontage: Each project shall have at least one hundred (100) feet of frontage on a street. (Ord. No. 2239, §215.2; Prior Code, §35-98)

### **Section 17.20.060 Setback Lines.**

The minimum setback lines in an R-7 District shall be as follows:

- A. Front: As regulated in Section 17.42.020.
- B. Side and rear: Five (5) feet for a structure up to twenty (20) ft. in height, seven and one-half (7.5) feet for a structure higher than twenty (20) feet but no more than thirty (30) feet, ten (10) feet for any structure above thirty (30) feet in height (height measured from grade to peak of roof). (Ord. No. 11, §3, 3-3-92)
- C. Distance between buildings. In projects containing two (2) or more buildings, minimum distance between all buildings shall be provided in accordance with Section 17.42.030. (Ord. No. 2239, §215.3; Prior Code, §35-99)

## COLUMBUS ZONING ORDINANCE

### **Section 17.20.070 Height Restrictions.**

The maximum height in an R-7 District shall be as follows:

- A. Primary building: Thirty-five (35) feet.
- B. Accessory building: Twenty-five (25) feet. (Ord. No. 2239, §215.4; Prior Code, §35-100)

### **Section 17.20.075 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. Landscape plans for multifamily developments are subject to Landscape Review Committee review and approval. (Ord. No. 49, §49, 12-5-95, Ord. No. 22, §3, 9-7-99).

### **Section 17.20.080 Open Space.**

In an R-7 District, 1.2 square feet of open space shall be provided for each one (1) square foot of floor area. (Ord. No. 2239, §215.5; Prior Code, §35-101)

### **Section 17.20.090 Floor Area.**

The total floor area of all buildings shall not exceed sixty (60%) percent of the land area in an R-7 District. (Ord. No. 2239, §215.5; Prior Code, §35-101)

### **Section 17.20.100 Off-Street Parking.**

The minimum off-street parking space in an R-7 District shall be one and one-half (1-1/2) spaces per dwelling unit, and as further regulated in Section 17.44. (Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95).

### **Section 17.20.110 Signs.**

The signs in an R-7 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §215.8; Prior Code, §35-104; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.21**

### **R-8 MANUFACTURED HOME DEVELOPMENT DISTRICT**

(Ord. No. 14, 1995, §3, 3-5-95)

#### **Section 17.21.010 Intention of District.**

The R-8 Manufactured Home Development District is designed to accommodate manufactured homes in the community as an attractive and decent affordable housing within standards of livability that accord with the purposes of health, safety, and general welfare.

#### **Section 17.21.020 Permitted Uses.**

- A. Type I or Type II Manufactured Homes in a park.
- B. Type I or Type II Manufactured Homes in a subdivision.
- C. Accessory Uses.
  - 1. Manufactured Home Park.
    - a. Management offices, storage, mini-warehouses, laundry, dry cleaning facilities, and other structures customarily incidental to manufactured home parks shall be permitted as accessory uses, provided that the following criteria are met:
      - (1) They are subordinate to the residential character of the park.
      - (2) They are located, designed and intended to serve only the needs of persons living in the park.
      - (3) The establishments shall present no visible evidence of their business nature to areas outside the park.
      - (4) Parking shall be regulated in Section 17.44.
    - b. Each manufactured home is entitled to one accessory structure per site in addition to a carport or a garage. Attached or detached garages, mini-barns, barns, etc. are to be counted toward the total accessory building area.

## COLUMBUS ZONING ORDINANCE

Unenclosed structures such as carports, gazebos, picnic shelters, are not to be counted. Accessory buildings are not deemed to include doghouses, treehouses, and other such incidental buildings. The total area of all accessory structures shall not to exceed 20% of lot area.

c. Model manufactured homes as sales units provided that the number of model homes is limited to 10% of the authorized number of units in the park. Model homes must comply with all standards set forth in the R-8 district. One unit may be used as a sales office. In addition, the sales office must meet the criteria of Section 17.21.020 C a. Manufactured homes placed on lots as units for speculation are permitted.

2. Manufactured Home Subdivision. Accessory uses shall be regulated in Chapter 17.52 of this Title.

### **Section 17.21.030 Connection to Water and Sewer Facilities.**

A. In an R-8 District, attachment to public or semi-public water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant.

(Ord. No. 25, §3, 9-7-99)

B. Manufactured Home Parks shall be in accordance with I.C. 16-11-27-1 et seq., Rule 410 IAC 6-6 and their subsequent amendments, the State Board of Health Regulations, and the requirements of this Chapter.

### **Section 17.21.040 Foundations.**

A. Manufactured Home Park. Each manufactured home must be tied down and have perimeter skirting.

B. Manufactured Home Subdivision. Each manufactured home must have a permanent foundation to be placed in accordance with Appendix C of Indiana One and Two Family Dwelling Code, and a permanent perimeter skirting of eight (8) inch concrete block installed in accordance with American Standard Testing requirements (ASTM) of current adoption or poured concrete wall.

### **Section 17.21.050 Project and Lot Size.**

A. Project Size: Five (5) acres.

B. Project Frontage: Fifty (50) feet.

C. Access points: If there are forty (40) or more manufactured homes in a development, two access points shall be required.

D. Lot or Site Size.

1. Manufactured Home Parks. The minimum site size or area shall be 4000 sq. ft. with a minimum site width of 30 ft. The site size may be less than 4000 sq. ft. if the amount by which the site size is reduced is devoted to common open space and the site size is not less than 3200 sq. ft.

2. Manufactured Home Subdivisions. The minimum lot size is 5,000 sq. ft. with a minimum lot width of 50 ft.

### **Section 17.21.060 Setback Lines.**

A. Front.

1. As regulated in Section 17.42.020.

2. Manufactured Home Parks. On private interior streets, 10 ft. from edge of pavement.

B. Side and Rear: Five (5) feet for a structure up to twenty (20) ft. in height, seven and one-half (7.5) feet for a structure higher than twenty (20) feet but less than thirty (30) ft., ten (10) feet for any structure above thirty (30) feet in height.

### **Section 17.21.070 Height Restriction.**

## COLUMBUS ZONING ORDINANCE

A. Manufactured Home Parks. Maximum height for accessory structures is 15 ft. Maximum height for primary structures is 20 ft.

B. Manufactured Home Subdivisions. Maximum height for accessory structures is 20 ft. Maximum height for primary structures is 35 ft.

### **Section 17.21.080 Landscaping.**

Manufactured Home Park. Landscaping shall be provided in accordance with Chapter 17.43 of this Title. Landscape plans for manufactured home parks are subject to Landscape Review Committee review and approval. (Ord. No. 34, §3, 7-1-97)

### **Section 17.21.090 Open Space.**

Manufactured Home Park. A minimum of 400 sq. ft. per site shall be dedicated to open space, a portion of which shall be an active recreational area, or ¼ acre, whichever is greater. Open space shall be configured for the activity for which it is designed.

### **Section 17.21.100 Off-Street Parking.**

A. Manufactured Home Park. Parking spaces shall be provided on the basis of two (2) parking spaces per dwelling unit adjacent to, or conveniently near, each manufactured home site, and as further regulated in Section 17.44. Guest parking spaces or overflow parking spaces shall be provided as regulated in Rule 410 IAC 6-6 and its subsequent amendments, shall be distributed evenly throughout the park, and as further regulated by in Section 17.44.

B. Manufactured Home Subdivision. Off-street parking spaces shall be provided on the basis of two (2) parking spaces per dwelling unit, and as further regulated in Section 17.44.

### **Section 17.21.110 Sidewalks**

A. Both manufactured home parks and manufactured home subdivisions are required to have sidewalks on all public streets (not on interior private streets). Such sidewalks shall comply with the minimum standards established by the City of Columbus.

### **Section 17.21.120 Public Improvements**

Manufactured home parks shall be permitted only if the public streets, drainage facilities, and utilities are adequate to serve the proposed development. Any public streets which will carry the increased traffic from the park shall be adequate to accommodate such traffic. Drainage facilities and public utilities shall have sufficient capacity to serve the development. The city engineer shall make a determination as to needed street and drainage improvements, and the city utilities department shall make a determination as to needed utility improvements. All required improvements shall be constructed according to standards acceptable to the city engineer and/or utilities department. The decision of the city engineer or utilities department may be appealed to the Board of Zoning Appeals. When public improvements are required, the developer or authorized representative shall be required to post performance and maintenance guarantees for such improvements in the manner specified in the Subdivision Control Ordinance.

### **Section 17.21.130 Signs.**

Signs shall be as regulated in Chapter 17.46 of this Title.

## **CHAPTER 17.22**

### **PUD PLANNED UNIT DEVELOPMENT DISTRICT<sup>0</sup>**

(Ord. No. 40, 1999, §III, 12-7-99)

### **Section 17.22.010 Purpose of District.**

## COLUMBUS ZONING ORDINANCE

The purposes of a PUD District are to:

- A. Implement the Comprehensive Plan
- B. Encourage a more creative approach in land development and site planning.

(Ord. No. 2239, §218.1; Prior Code, §35-115)

### **Section 17.22.020 Applicability.**

A. The provisions of this Chapter may apply to any tract of land where it is in the best interests of the City to provide for added flexibility and creativity in development design.

B. Uses permitted in a PUD may include any use or combination of uses that the Commission and Common Council find to be consistent with the Comprehensive Plan.

C. Any development standard in this ordinance may be modified for a PUD, provided that the Commission and/or Common Council find(s) that such modification promotes the purposes of this Chapter and is consistent with the spirit and intent of this ordinance. It is the responsibility of the applicant to provide justification for modification of any development standard.

(Ord. No. 2239, §218.2; Prior Code, §35-116)

### **Section 17.22.030 Procedure for Authorization, Approval, Modifications, Extensions.**

The authorization of a PUD shall be subject to the procedures expressed as follows:

A. A petition to rezone property to PUD may be filed by the following:

- 1. The owners of all lots or parcels within the area proposed for rezoning;
- 2. In the case of a single lot or parcel with multiple owners, all those having ownership interest in the lot or parcel.

B. A petition to modify an approved PUD may be filed by the following:

- 1. The owners of all lots or parcels within the area proposed for modification and any other owners in the PUD affected by such modification;
- 2. In the case of a single lot or parcel with multiple owners, owners having a majority ownership interest in the lot or parcel.

C. The Commission shall hold a public hearing and make a recommendation to the Common Council on the proposed PUD ordinance and PUD zoning in the same manner as for a map amendment. The Commission may recommend approval or disapproval of the rezoning request. The Commission may impose conditions on a favorable recommendation and/or request written commitments in accordance with Section 17.02.160 of the zoning ordinance.

D. The Common Council may impose reasonable conditions on a proposed PUD and allow or require the owner of the real property to make written commitments in accordance with Section 17.02.160 F of the Zoning Ordinance. (Ord. #20, §3, 5-4-93)

E. Adoption of the PUD ordinance by the Common Council, constitutes final approval of the Preliminary PUD Plan. After the PUD ordinance is adopted, the Commission shall exercise continuing jurisdiction. The Commission is hereby authorized to conduct secondary reviews, grant approvals, and make modifications to Approved Detailed PUD Plans. The Commission shall not modify the Preliminary PUD Plan or any condition or commitment allowed or required by the Common Council.

F. In the exercise of its continuing jurisdiction, the Commission may from time to time allow the petitioner to modify the approved detailed PUD in a manner consistent with the approved Preliminary PUD Plan to allow for changed circumstances and conditions unforeseen at the time of original approval. Except as provided below, such modifications shall be considered in the same manner as the secondary review, and notice shall be given and a hearing held in accordance with the Commission's Rules of Procedure.

G. The staff is authorized to approve minor modifications as specified in Section 17.22.045.

### **Section 17.22.040 Preliminary and Secondary Review**

A. An application for rezoning to PUD shall include or incorporate by reference the following:

- 1. Legal description of the property involved in the request.

## COLUMBUS ZONING ORDINANCE

2. Boundaries of the tract and all existing lots or parcels within the tract.
  3. Drawing of the site and adjacent land showing the physical features, topography, drainageways, regulated drains, easements, water bodies, tree cover, existing buildings, existing land uses, and existing zoning and the relationship of the proposed development to these features.
  4. Streets on and in the vicinity of the tract.
  5. Ingress and egress to the tract.
  6. A listing of all principal and accessory uses and all temporary uses to be permitted in the PUD district, the location of each general land use area proposed to be developed, and the land area to be devoted to each use.
  7. Proposed density levels of each residential area.
  8. Proposed square footage of nonresidential buildings and areas, if any.
  9. Preliminary plan for permanent and temporary signs.
  10. Proposed general location of major vehicular circulation, showing how this circulation pattern relates to the Official Thoroughfare Plan of the City.
  11. Location of existing or proposed schools, parks and other community facility sites, if any.
  12. Time schedule of projected development and any proposed phasing of the project.
  13. An enumeration of covenants, in general terms, proposed to be made a part of the development.
  14. A preliminary analysis of the traffic impact of the development and measures proposed to mitigate traffic problems.
  15. A written narrative describing the relationship and consistency of the proposed development with the Comprehensive Plan.
  16. Any other materials or information the Commission deems necessary for a fair and complete evaluation of the proposed development.
- B. The Commission shall conduct secondary review as specified in Indiana law and further described in this section.
1. The Commission may approve a detailed PUD plan only after a public hearing. Notice shall be given to interested parties and the hearing conducted in accordance with the Commission's Rules of Procedure.
  2. No development shall take place until the Commission has approved a detailed PUD plan. If a subdivision plat is filed in conjunction with the detailed PUD plan, appropriate plans and details listed below may be included on the subdivision plat rather than on the PUD plan. The detailed PUD plan or subdivision plat shall include the following:
    - a. Accurate boundaries of all lots.
    - b. Township lines.
    - c. Drainage plan.
    - d. Sewage disposal plan.
    - e. Water system plan.
    - f. Accurate location and size of recreational facilities.
    - g. Site perimeter treatment and other pertinent site development features, including parking and circulation.
    - h. Landscape plan, including sizes, types, and locations of plants and other landscape features.
    - i. Land uses on each parcel and/or in each building shown on the plan.
    - j. Locations and features of proposed buildings. Unless required by the Commission to ensure compatibility with neighboring properties, the detailed PUD plan need not show precise building locations, but the plan shall set forth the development standards for all buildings and uses.
    - k. Sign plan, providing for all permanent and temporary signs to be placed on the property.
    - l. Any other details needed to ensure compliance with the Preliminary PUD Plan.
  3. Approval of the detailed PUD plan shall be granted only upon a finding by the Commission that the plan is consistent with the approved Preliminary PUD Plan.
  4. The Approved Detailed PUD Plan shall be marked, "Approved Detailed Planned Unit Development," be signed by the president and secretary of the Commission, and bear the Commission's seal. One (1) copy shall be permanently retained in the offices of the Commission. No zoning compliance certificate shall be issued until the

## COLUMBUS ZONING ORDINANCE

detailed plan and all accompanying documents have been recorded in the Office of the Bartholomew County Recorder.

C. Any decision of the Commission to approve or deny approval of a detailed PUD plan hereunder is a final decision that may be appealed to the Common Council pursuant to Section 17.61.100; provided that any refusal by the Commission to approve a detailed PUD plan shall not limit the right of the petitioner to continue to seek approval, nor shall it impair the right of the petitioner to request an extension of time for approval, if no appeal is filed in accordance with Section 17.61.100.

D. The Commission may allow the petitioner to develop the property involved in phases. If such phasing is permitted, the petitioner shall submit detailed PUD plans which correspond to the phases involved, and the phases shall be developed in the order approved by the Commission. Such detailed PUD plans for phases, when approved, shall be treated in the same manner as the Approved Detailed PUD Plan for an entire PUD.

E. Where platting, replatting or vacation of streets within all or a portion of the land involved is contemplated, the Commission shall handle such matters in accordance with its regular procedures in accordance with law.

F. No construction or installation work shall be done on any public improvement until satisfactory plans and specifications therefor have been approved by the Commission as part of the Approved Detailed PUD Plan or as part of a subdivision in accordance with the subdivision control chapter of this Code.

### **Section 17.22.045 Minor Modifications**

- A. Minor modifications are changes that do not do any of the following:
1. Alter the basic relationship of the proposed development to adjacent property.
  2. Change the uses permitted.
  3. Increase any of the following by more than 15% (this total is cumulative for all modifications to the PUD):
    - a. the maximum density.
    - b. the maximum floor area.
    - c. the maximum height.
  4. Decrease the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the staff shall consider the amount otherwise required by the zoning ordinance for this use, the information available from the Institute of Traffic Engineers, empirical studies of the parking needs for the use.
  5. Reduce the approved yards or setbacks by more than 15%.
  6. Alter site ingress or egress in any way or create a substantial change to on-site circulation, as determined by the city engineer.

B. Upon receiving a request for a minor modification, the staff shall have ten (10) working days to respond to the petitioner, by either approving or rejecting the request. An applicant may appeal the decision of the staff to the Commission.

### **Section 17.22.050 Abandonment or Expiration.**

A. The Common Council's approval of the Preliminary PUD Plan shall be valid for two (2) years after the date the Common Council adopts the PUD ordinance. Within this two (2) year period the PUD shall receive approval of the final detailed PUD plan for the first section or the entire development. Should the planned development not receive approval of the detailed PUD plan for at least one (1) section or the entire development within the two (2) years, the Common Council, Commission, or property owner may initiate a rezoning of the property. The Commission may extend the approval period, not to exceed five (5) successive periods of no more than two (2) years each. The approval of the detailed PUD plan for each section of the Preliminary PUD Plan shall extend the approval length of the Preliminary PUD Plan for two (2) years.

B. Commission approval of a detailed PUD plan shall expire if the plan is not recorded as required in Section 17.22.040 within six (6) months after the approval date. Commission approval of a detailed PUD plan shall expire after a period of five (5) years from the approval of a Detailed PUD unless the development in any phase has been substantially begun and pursued with due diligence. The Commission may grant extensions of time not to exceed five (5) successive periods of no more than two (2) years each. If the detailed PUD plan expires as provided in this

## COLUMBUS ZONING ORDINANCE

section, the Commission may require the plan to be resubmitted for approval, and it shall conduct a secondary review as if the plan were a new filing. Alternatively, the Commission may opt to initiate a rezoning of the property to a classification other than PUD.

C. A development approved under this Chapter shall be deemed to be abandoned or discontinued if it has expired under Subsection B above or when no improvements have been made pursuant to the detailed PUD plan for a period of twenty-four consecutive months. When a PUD has been abandoned or discontinued, the detailed PUD plan shall no longer be valid, and no development shall be permitted until the plan is re-approved, a new plan is approved, or the property is rezoned. (Ord. No. 2239, §218.4; Prior Code, §35-118)

### **Section 17.22.060     Reserved.**

### **Section 17.22.070     Permits and enforcement.**

A. The staff shall not issue a Zoning Compliance Certificate nor a building permit for development or improvements in a PUD District unless all recording required by this Chapter has been effected. No certificate of completion or occupancy shall be issued for a PUD District unless the development complies with the approved Detailed PUD. (Ord. No. 2239, §218.6; Prior Code, §35-120)

B. All development shall be in conformity with the approved detailed PUD. In the exercise of its continuing jurisdiction, the Commission shall take cognizance of any material deviations from the approved Detailed PUD and take appropriate enforcement action. Only those uses shown on the Approved Detailed PUD Plan shall be permitted; all other uses are prohibited. (Ord. No. 2239, §218.3; Ord. No. 2944, §§1, 2; Prior Code, §35-117)

### **Section 17.22.080     Covenants and Maintenance; Financial Guarantees.**

A. Covenants may be required by the Commission as an ingredient for stability and longevity of the PUD. If submitted, the covenants shall set forth in detail provisions for the ownership, administration, and maintenance of facilities held in common so as to ensure their continuity and conservation. Such covenant provisions shall include specific remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the entire City, and in such event the City may take those remedial steps provided for such provision. The covenants shall be recorded with the detailed PUD plan.

B. The Commission may require the recording of covenants for any reasonable public or semipublic purpose, including but not limited to the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities and other public and semipublic purposes wherever necessary in conformity with the land use plan of current adoption. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within the specified period of time, the applicable elements of the covenants shall automatically terminate. If such termination occurs, the petitioner shall then submit for approval by the Commission a modified detailed PUD plan for such land consistent with the approved Preliminary PUD Plan. Such modified detailed PUD plans, when approved, shall be treated in the same manner as Approved Detailed PUD Plans for an entire PUD.

C. The Commission may require the recording of covenants for any other reasonable purpose, including but not limited to imposing standards for development of property in a PUD. Such development standards may include, but are not limited to, requirements as to the following:

1. Lot area.
2. Floor area.
3. Ratios of floor space to land area.
4. Buildable area or the area in which structures may be built.
5. Open space.
6. Setback lines and minimum yards.
7. Building separations.
8. Height of structures.

## COLUMBUS ZONING ORDINANCE

9. Signs.
10. Off-street parking and loading space.
11. Design standards.
12. Phasing of development. (Ord. No. 86-2, §1, 3-18-86)

D. The petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Title of this Code.

E. Adequate provision shall be made for a private organization with direct responsibility to and control by the property owners involved to provide for the operation and maintenance of all common facilities, including private streets. Assurances or guarantees, satisfactory to the Commission, shall be provided to demonstrate that the private organization is self-perpetuating and adequately funded to accomplish its purposes.

F. Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge to the beneficiaries thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

G. All private streets shall be maintained by the responsible private organization in such a manner that adequate access is provided at all times to vehicular traffic, so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that such vehicles will have adequate maneuvering area. Such private streets shall be developed in accordance with Subdivision Control Title of this Code. (Ord. No. 2239, §218.7; Prior Code, §35-121)

### **Section 17.22.090 Financial Guarantees**

A. As a condition of approval, the Commission and/or Common Council shall require any appropriate financial guarantees to insure the timely completion of any improvement related to the PUD.

## **CHAPTER 17.24 RB RESTRICTED BUFFER DISTRICT**

### **Section 17.24.010 Intention of District.**

The RB Restricted Buffer District is intended primarily as an institutional buffer zone, which because of its proximity to business uses, public uses, and residential uses, is designed to serve a transition function in land use planning. This district is not intended to be commercial in character and is deemed to include uses of compatible characteristics. (Ord. No. 2239, §219; Prior Code, §35-123)

### **Section 17.24.020 Conduct of Uses.**

The conduct of permitted uses in an RB District shall be within completely enclosed buildings, except for accessory off-street parking and loading facilities. (Ord. No. 2239, §219.1; Prior Code, §35-124)

### **Section 17.24.030 Permitted Uses.**

Within any RB Restricted Buffer District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Day care centers and kindergartens.
- B. Educational institutions, special schools, vocational school and music and art studios.
- C. General business office uses, including medical and dental clinics; provided, that no retail activity is carried on with the general public and no stock of goods is maintained for sale. (Ord. No. 23, 1985)
- D. Public and semipublic uses, including but not limited to museums, libraries, parks, churches, community centers, exhibition and assembly halls, convention centers, galleries, and facilities for the production of live theater and accessory retail sales incidental to the primary use of the facility, including but not limited to theater equipment sales, ticket sales, and museum gift shops. (Ord. No. 3094, 1983, 8-3-83)

## COLUMBUS ZONING ORDINANCE

E. Catering establishments, when conducted independently and not as accessory to a restaurant or dining establishment. (Ord. No. 3094, 1983, 8-3-83)

F. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use.

G. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).

H. Temporary uses.

I. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.24.040 Conditional Use.**

The following conditional uses shall be permitted in the RB District upon approval of the Board of Zoning Appeals, as set forth in Section 17.61.060:

A. Buildings in excess of thirty (30) feet in height; provided, that additional front, side and rear setback distances shall be provided to the minimum extent of two (2) feet for each five (5) feet in height over such thirty (30) feet; provided further, that such building height shall not exceed one hundred (100) feet. (Ord. No. 2239, §219.3; Prior Code, §35-126)

B. (Ord. No. 4, §III, 2-1-94)

### **Section 17.24.050 Connection to Water and Sewer Facilities.**

In an RB District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 2239, §219.4(b); Ord. No. 25, §3, 9-7-99; Prior Code, §35-127; Ord. No. 21, 7-1-03)

### **Section 17.24.060 Lot Size.**

The minimum lot Size in an RB District shall be as follows:

A. Area: Fourteen thousand (14,000) square feet.

B. Frontage: One hundred (100) feet. (Ord. No. 2239, §219.4; Prior Code, §35-128)

C. Width and frontage exception for cul-de-sac: See Section 17.42.240 (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.24.070 Setback Lines.**

The setback lines in an RB District shall be as follows:

A. Front: As regulated in Section 17.42.020. (Ord. No. 49, §III, 12-5-95)

B. Side and rear: Ten (10) feet where the lot line abuts nonresidential district lot lines; provided, that where a dedicated, improved alley separates, a side or rear yard from adjacent property, the required side or rear yard may be used in conjunction with off-street parking facilities.

C. Transitional: When the side or rear lot line abuts residential district lines, the minimum side or rear transitional setback distance shall be twenty (20) feet in depth. The transitional setback distance shall be used only for landscaping or driveways. Such transitional setback distance may be measured to the centerline of an abutting alley which is dedicated and separates the side or rear lot line from an adjacent residential district. (Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95)

D. Distance between buildings. In projects containing two (2) or more buildings, minimum distance between all buildings shall be provided in accordance with Section 17.42.030. (Ord. No. 2239, §219.5; Ord. No. 2405; Prior Code, §35-129)

### **Section 17.24.075 Landscaping**

## COLUMBUS ZONING ORDINANCE

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.24.080 Height Restrictions.**

The maximum height in an RB District shall be as follows:

- A. Primary building: Thirty (30) feet.
- B. Accessory building: Twenty (20) feet. (Ord. No. 2239, §219.6; Prior Code, §35-130)

### **Section 17.24.090 Floor Area.**

The total floor area of all buildings shall not exceed fifty (50) percent of the lot area in an RB District. (Ord. No. 2239, §219.7; Prior Code, §35-131)

### **Section 17.24.100 Off-Street Parking and Loading.**

The off-street parking and loading space in an RB District shall be one and one-half (1-1/2) spaces per dwelling unit, and as further regulated in Section 17.44. (Ord. No. 2239, §219.8; Prior Code, §35-132)

### **Section 17.24.110 Signs.**

The signs in an RB District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §219.9; Prior Code, §35-133; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.26 B-1 NEIGHBORHOOD BUSINESS DISTRICT**

### **Section 17.26.010 Intention of District.**

The B-1 Neighborhood Business District is intended primarily for professional office uses, personal service uses and retail service uses, which dispense convenience goods and services directly to consumers on the premises. This district is designed to serve residential neighborhoods with a highly varied grouping of indoor business services short of the single unit heavy traffic generator. (Ord. No. 2239, §220; Prior Code, §35-134)

### **Section 17.26.020 Conduct of Uses.**

- A. The conduct of permitted uses in a B-1 District shall be within completely enclosed buildings, except for accessory off-street parking and loading facilities and drive-in convenience service windows.
- B. Establishments where the principal use is the drive-in type of business are not permitted.
- C. All goods produced on the premises as incidental or essential to the principal use shall be sold at retail on the premises where produced.
- D. Outside storage, vending machines and display of merchandise for sale to the public is not permitted.
- E. A single establishment shall not exceed twelve thousand (12,000) square feet in total gross floor area. (Ord. No. 2239, §220.1; Prior Code, §35-135)

### **Section 17.26.030 Permitted Uses.**

Within any B-1 Neighborhood Business District, no building, structure or premises shall be used or arranged or designed to be used except as one (1) or more of the following uses:

- A. Any use permitted in the RB District. (Ord. No. 32, §III, 11-16-99)
- B. Business service uses, including banks and financial institutions.
- C. Clothing service uses, including dry cleaning and laundry receiving stations, laundromats, dressmaking, millinery, tailoring and shoe repair shops.
- D. Equipment service uses, including electrical and household appliance store, radio, television and record sales and repairs, sporting goods and hardware stores.

## COLUMBUS ZONING ORDINANCE

- E. Food service uses, including grocery, meat and fish markets, delicatessen, eating places and bakery.
- F. Personal service uses, including beauty and barber shops, camera and photographic shops and optician shops.
- G. Professional office uses, including medical and dental clinics.
- H. Retail service uses, including drugstores, variety stores, book and stationery stores, newsstands, candy and ice cream stores, florist, gift, antique, art, music, toy and hobby shops, package liquor stores, paint and wallpaper stores, jewelry and leather stores.
- I. Special service uses, including children's homes, day care centers, kindergartens, nursing homes and neighborhood social centers.
- J. Accessory uses, which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use.
- K. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).
- L. Temporary uses. (Ord. No. 2239, §220.2; Prior Code, §35-136)
- M. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.26.040 Conditional Use.**

The following conditional uses shall be permitted in the B-1 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

- A. Drive-through establishment, in accordance with Section 17.42.190. (Ordinance No. 38, 1992 §3)
- B. RESERVED (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.26.045 Connection to Water and Sewer Facilities.**

In a B-1 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.26.050 Lot Size.**

The minimum lot size in a B-1 District shall be as follows:

- A. Area: Five thousand (5,000) square feet.
- B. Frontage: Fifty (50) feet. (Ord. No. 2239, §220.4, Prior Code, §35-138)
- C. Width and frontage exception for cul-de-sac: See Section 251.1 (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.26.060 Setback Lines.**

The minimum setback lines in a B-1 District shall be as follows:

- A. Front: As regulated in Section 17.42.020. The setback area may contain parking. Each street frontage is a front property line. (Ord. No. 49, §III, 12-5-95)
- B. Side and rear: No limits where the lot line abuts other business or industrial district lot lines.
- C. Transitional: When said side or rear lot line abuts residential district lines, the minimum side or rear transitional setback distance shall be twenty (20) feet in depth. The transitional setback distance shall be used only for landscaping, driveways, or parking. Such transitional setback distance may be measured to the centerline of an abutting alley which is dedicated and separates the side or rear lot line from an adjacent residential district. (Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95)

### **Section 17.26.065 Landscaping**

## COLUMBUS ZONING ORDINANCE

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.26.070 Height Restriction.**

The maximum building height permitted shall be thirty (30) feet in a B-1 District. (Ord. No. 2239, §220.6; Prior Code, §35-140)

### **Section 17.26.080 Floor Area.**

The total floor area of the building shall not exceed sixty (60) percent of the lot area in a B-1 District. (Ord. No. 2239, §220.7; Prior Code, §35-141)

### **Section 17.26.090 Off-Street Parking and Loading.**

The off-street parking and loading space in a B-1 District shall be as regulated in Section 17.44. (Ord. No. 2239, §220.8; Prior Code, §35-142)

### **Section 17.26.100 Signs.**

The signs in a B-1 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §220.8; Prior Code, §35-143; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.28 B-2 COMMUNITY BUSINESS DISTRICT**

### **Section 17.28.010 Intention of District.**

The B-2 Community Business District is intended to provide for the specialized types of service business and commercial establishments, which due to their function in the trade area and methods of operation require the capability of providing a wide latitude of shopper and comparison goods, as well as a wide assortment of services. (Ord. No. 2239, §221; Prior Code, §35-144)

### **Section 17.28.020 Conduct of Uses.**

The conduct of permitted uses in a B-2 District shall be within completely enclosed buildings, except for accessory uses which clearly demonstrate subordination to the permitted use in area, extent and purpose. Accessory uses such as outside storage and display of merchandise for sale to the public shall be delineated if not enclosed and may be open to the sky. Such accessory uses shall not occupy an area in excess of thirty percent (30%) of the total floor area of the main building occupying the premises. Such outdoor storage and display of merchandise shall not be interpreted as meaning the stockpiling of materials which are not immediately available for purchase. (Ord. No. 2239, §221; Prior Code, §35-145)

### **Section 17.28.030 Permitted Uses.**

Within any B-2 Community Business District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any use permitted in the B-1 District.
- B. Public service uses, including utility substations and distribution centers, bus, police and fire stations, post offices, libraries, telephone exchanges, waterworks, pumping station, assembly halls, vocational and special schools.
- C. General business offices, including agency, insurance and association offices and communication, travel and health studios.
- D. Retail service uses, including department stores, furniture, carpet, interior decorating, upholstering, furrier, and office supply stores; restaurants and catering establishments; hotels, taverns and nightclubs; and storage, processing and/or conditioning when incidental to any of these uses.
- E. Indoor commercial recreational uses, including auditorium, theater, bowling alley, billiard rooms, dance studios and amusement facilities.

## COLUMBUS ZONING ORDINANCE

F. Special service uses, including mortuaries and funeral parlors, garden supply centers and automobile accessory stores.

G. Fraternal, philanthropic and charitable uses, private clubs, lodges, social centers and athletic clubs, health and religious establishments.

H. Accessory uses, including accessory drive-in services which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use.

I. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).

J. Temporary uses.

K. Outdoor commercial recreation including baseball fields, swimming pools, skating rinks, miniature golf ranges and similar open-air facilities; provided, that any structure or area used for such outdoor recreation purpose shall be located not less than one hundred (100) feet from any residential district. (Ord. No. 2239, §221.2; Ord. No. 3018, §1; Prior Code, §35-146)

L. Drive-through establishments and drive-in restaurants, in accordance with Section 17.42.190. (Ord. No. 2, §III, 2-3-98)

M. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.28.040 Conditional Use.**

The following conditional uses shall be permitted in the B-2 District upon approval by the Board of Zoning Appeals in accordance with the regulations in Section 17.61.060:

A. RESERVED (Ord. No. 4, §III, 2-1-94; Ord. No. 2, §III, 2-3-98, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.28.045 Connection to Water and Sewer Facilities.**

In a B-2 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.28.050 Lot Size.**

The minimum lot size in a B-2 District shall be as follows:

A. Area: Five thousand (5,000) square feet.

B. Frontage: Fifty (50) feet. (Ord. No. 2239, §221.4; Prior Code, §35-148)

C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.28.060 Setback Lines.**

The minimum setback lines in a B-2 District shall be as follows:

A. Front: As regulated in Section 17.42.020. The minimum required front setback distance may contain off-street parking. The setback area may contain parking. Each street frontage is a front property line.

B. Side and rear: No limit where the lot line abuts other business or industrial district lot lines.

C. Transitional: In any instance where a front, side or rear business lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be forty (40) feet plus one-half of the right-of-way established by the thoroughfare plan in front and twenty (20) feet in side and rear. The transitional setback distance shall be used only for landscaping, driveways, or parking. Such transitional setback distance may be measured to the centerline of an abutting alley which is dedicated and separates the side or rear lot line from an adjacent residential district. All front setbacks shall be measured from the centerline of an

## COLUMBUS ZONING ORDINANCE

adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 2239, §221.5; Ord. No. 2405; Prior Code, §35-149; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §3, 11-1-94; Ord. No. 49, §III, 12-5-95)

### **Section 17.28.065 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.28.070 Height Restrictions.**

The maximum building height permitted shall be forty (40) feet in a B-2 District. (Ord. No. 2239, §221.6; Prior Code, §35-150)

### **Section 17.28.080 Floor Area.**

The total floor area of a building shall not exceed one hundred fifty percent(150%) of the lot area in a B-2 District. (Ord. No. 2239, §221.7; Prior Code, §35-151)

### **Section 17.28.090 Off-Street Parking and Loading.**

The off-street parking and loading space in a B-2 District shall be as regulated in Section 17.44. (Ord. No. 2239, §221.8; Prior Code, §35-152)

### **Section 17.28.100 Signs.**

The signs in a B-2 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §221.8; Prior Code, §35-153; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.30**

### **B-3 CENTRAL BUSINESS DISTRICT**

#### **Section 17.30.010 Intention of District.**

The B-3 Central Business District is intended to serve as the primary business district of the community, where a full range of goods and services are offered and where the greatest land use intensity is located. This district is the focal point for community identification, highly accessible to the entire trade area and designed for pedestrian oriented services. (Ord. No. 2239, §222; Prior Code, §35-154)

#### **Section 17.30.020 Conduct of Uses.**

The conduct of permitted uses in a B-3 District shall be within completely enclosed buildings, except for accessory uses which clearly demonstrate subordination to the permitted use in area, extent and purpose. Accessory uses such as outside storage and display of merchandise for sale to the public shall be delineated if not enclosed, and may be open to the sky. Such accessory uses shall not occupy an area in excess of thirty percent (30%) of the total floor area used in the same building by the same firm or enterprise. Such outdoor storage and display of merchandise shall not be interpreted as meaning the stockpiling of materials which are not immediately available for purchase. (Ord. No. 2239, §222.1; Prior Code, §35-155)

#### **Section 17.30.030 Permitted Uses.**

Within any B-3 Central Business District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any use permitted in the B-2 District.
- B. Transportation facilities and accessory facilities therefor, including but not limited to waiting rooms, loading and unloading areas, storage and associated commercial uses.
- C. Printing and publishing establishments, blueprinting and photostating establishments, radio and television studios.
- D. Public and semipublic buildings and uses.

## COLUMBUS ZONING ORDINANCE

E. Off-street parking reservoir facilities, including parking garages and limited automobile servicing when enclosed.

F. Sales and display rooms for retail, wholesale and distribution of goods, materials and products.

G. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use, including accessory drive-in services, wholesale, distribution and storage uses and the processing or light manufacturing of goods by retailers and wholesalers.

H. Temporary uses. (Ord. No. 2239, §222.2; Prior Code, §35-156)

I. Rooming units, elderly housing and apartment hotels.

J. Single-family dwelling, two-family dwelling, multi-family dwelling.

K. Accessory Uses associated with residential use

L. Home Occupations

M. Group Homes (Ord. No 40, §3, 8-25-93)

N. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.30.040 Conditional Use.**

The following conditional uses shall be permitted in the B-3 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

A. Drive-in restaurants in accordance with Section 17.42.190. (Ord. No. 49, §3, 8-21-90)

B. Drive-through establishment, in accordance with Section 17.42.190. (Ord. No. 49, §3, 8-1-90)

C. RESERVED (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.30.045 Connection to Water and Sewer Facilities.**

In a B-3 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.30.050 Lot Size.**

There shall be no required minimum lot size in a B-3 District. (Ord. No. 2239, §222.4; Prior Code, §35-158)

### **Section 17.30.060 Setback Lines.**

In a B-3 District, there shall be no required front, side or other setback lines; provided, that no structure may encroach into the right-of-way established by the Thoroughfare Plan and further provided that for each five (5) feet in building height over forty (40) feet, the required minimum setback shall equal one (1) foot plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 2239, §222.5; Prior Code, §35-159; Ord. No. 49, §3, 11-1-94)

### **Section 17.30.070 Height Restriction.**

The maximum building height permitted shall be fifty (50) feet in a B-3 District. (Ord. No. 2239, §222.6; Ord. No. 25, §3, 9-7-99; Prior Code, §35-160)

### **Section 17.30.080 Floor Area.**

The total floor area of a building in a B-3 District shall not exceed four hundred percent (400%) of the lot area; provided, that exterior ground level open space on the lot which is suitably landscaped and developed in arcades, plazas and malls, primarily unobstructed and open to the sky, shall constitute a floor area bonus by adding to the floor area ratio an area equal to two (2) times such open space. (Ord. No. 2239, §222.7; Prior Code, §35-161)

## COLUMBUS ZONING ORDINANCE

### **Section 17.30.090 Off-Street Parking and Loading.**

The off-street parking and loading space in a B-3 District shall be as regulated in Section 17.44. (Ord. No. 2239, §222.8; Prior Code, §35-162)

### **Section 17.30.100 Signs.**

The signs in a B-3 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §222.8; Prior Code, §35-163; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.32 B-4 HIGHWAY BUSINESS DISTRICT**

### **Section 17.32.010 Intention of District.**

The B-4 Highway Business District is intended to provide for highway-oriented business uses offering accommodations, supplies and services to the general public, and ordinarily are located along highways designated as major arterials. (Ord. No. 2239, §223; Prior Code, §35-164)

### **Section 17.32.020 Conduct of Uses.**

A. Both indoor and outdoor sales and services shall be permitted in a B-4 District, including retail establishments providing drive-in services, outdoor sales, services and display of merchandise.

B. All outdoor storage of materials or products shall be within completely enclosed buildings or effectively screened by a solid wall or fence not less than six (6) feet in height, and storage within such enclosure shall not be in excess of the height of the wall or fence; provided, that for display of goods such as automobiles, such wall or fence shall not be less than two (2) feet in height. (Ord. No. 2239, §223.1; Prior Code, §35-165)

### **Section 17.32.030 Permitted Uses.**

Within any B-4 Highway Business District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

A. Any use permitted in the B-3 District, except for those listed under 17.30.030 I - M. (Ord. No. 40, §3, 8-25-93)

B. Automobile service station uses, but not including major body repair, the dismantling or wrecking or the storage of inoperable or damaged vehicles.

C. Sales, rental and storage of automobiles, campers, recreational vehicles, Type I and II manufactured homes and boats; provided, that all servicing and maintenance shall be carried on within enclosed buildings. (Ord. No. 14, 1995, §3, 3-5-95)

D. Drive-in restaurants, in accordance with Section 17.42.190. (Ord. No. 49, §3, 8-21-90)

E. Commercial recreational uses, including golf, permanent carnivals, drive-in movies, riding stables and other similar outdoor amusement facilities.

F. Hotels, motels, restaurants, taverns and nightclubs, private clubs and lodges, including live entertainment and dancing.

G. Special services uses, model home displays, building material sales, vending preparation, food locker plants, auction rooms, plant nurseries and greenhouses.

H. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use.

I. Temporary uses. (Ord. No. 2239, §223.2; Prior Code, §35-166)

J. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).

## COLUMBUS ZONING ORDINANCE

- K. Drive-through establishment, in accordance with Section 17.42.190. (Ord. No. 49, §3, 8-21-90)
- L. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.32.040 Conditional Use.**

The following conditional uses shall be permitted in the B-4 District upon approval by the Board of Zoning Appeals, in accordance with regulations in Section 17.61.060:

- A. RESERVED (Ord. No. 52, §III, 12-19-95)
- B. Engineering or research laboratory, in accordance with Section 17.61.070 C. (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.32.045 Connection to Water and Sewer Facilities.**

In a B-4 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.32.050 Lot Size.**

The minimum lot size in a B-4 District shall be as follows:

- A. Area: Ten thousand (10,000) square feet.
- B. Frontage: One hundred (100) feet. (Ord. No. 2239, §223.4; Prior Code, §35-168)
- C. Width and frontage exception for cul-de-sac: See Section 17.42.240 (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.32.060 Setback Lines.**

The minimum setback lines in a B-4 District shall be as follows:

- A. Front: As regulated in Section 17.42.020. The minimum required front setback distance may contain off-street parking. The setback area may contain parking. Each street frontage is a front property line. (Ord. No. 49, §III, 12-5-95)

- B. Side and rear: No limit where the lot line abuts other business or industrial district lot lines.

C. Transitional: In any instance where a front, side or rear business lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be sixty (60) feet plus one-half of the right-of-way established by the Thoroughfare Plan in front and twenty (20) feet in side and rear. Parking requirements within the front setback distance shall be as regulated in Section 17.32.060 A. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 49, §3, 11-1-94)

The transitional setback distance shall be used only for landscaping, driveways, or parking. Such transitional setback distance may be measured to the centerline of an abutting alley which is dedicated and separates the side or rear lot line from an adjacent residential district. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95)

### **Section 17.32.065 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.32.070 Height Restrictions.**

The maximum building height permitted shall be forty (40) feet in a B-4 District. (Ord. No. 2239, §223.6; Prior Code, §35-170)

### **Section 17.32.080 Floor Area.**

## COLUMBUS ZONING ORDINANCE

The total floor area of a building in a B-4 District shall not exceed one hundred percent (100%) of the lot area. (Ord. No. 2239, §223.7; Prior Code, §35-171)

### **Section 17.32.090 Off-Street Parking and Loading.**

The off-street parking and loading space in a B-4 District shall be as regulated in Section 17.44. (Ord. No. 2239, §223.8; Prior Code, §35-172)

### **Section 17.32.100 Signs.**

The signs in a B-4 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §223.8; Prior Code, §35-173; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.34**

### **B-5 GENERAL BUSINESS DISTRICT**

#### **Section 17.34.010 Intention of District.**

The B-5 General Business District is intended primarily for the distribution of goods and the furnishing of major services in a general commerce district, which uses require large tracts in highly accessible locations in order that objectionable characteristics may be buffered from adjoining districts. (Ord. No. 2239, §224; Prior Code, §35-174)

#### **Section 17.34.020 Conduct of Uses.**

A. Both indoor and outdoor sales and services shall be permitted in this district, including retail and wholesale establishments providing carry-out or drive-in services, outdoor sales, services and display of merchandise.

B. All outdoor storage of materials or products shall be within enclosed buildings or effectively screened by a solid wall or fence not less than six (6) feet in height, and storage within such enclosure shall not be in excess of the height of the wall or fence; provided, that such fence or wall which is required by Section 17.43.030 shall be provided with landscaping as specified in Section 17.43.030 F. (Ord. No. 2239, §224.1; Prior Code, §35-175; Ord. No. 49, §III, 12-5-95)

#### **Section 17.34.030 Permitted Uses.**

Within any B-5 General Business District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any use permitted in the B-4 District.
- B. Distribution and supply uses, including machinery and farm implement sales and services, fuel and ice sales, industrial laundry and dry cleaning plants, building and lumber supply outlets.
- C. Contractors and construction yards, coal yards, cemetery monuments and tombstones, including engraving.
- D. Wholesaling, warehousing, distribution, storage and transfer establishments, packing and crating uses.
- E. Automobile service uses, including major body repairs, painting and tire retreading, but not including the dismantling or wrecking of vehicles or the storage of inoperable or damaged vehicles.
- F. Trade shops, including sheet metal, upholstery, electrical, plumbing, plastics, Venetian blind, cabinet making and carpentry and sign fabricating and painting; provided that all operations are conducted within completely enclosed buildings. (Limitation on No. of Employees deleted, Ord. No. 37-1992, §3)
- G. Truck stops, highway maintenance shops and yards.
- H. Railroad or other mass transportation rights-of-way and trackage, including passenger stations, shelter stations and layover areas for transit vehicles and off-street parking facilities; provided, that such uses, except rights-of-way, shall not extend within twenty (20) feet of a residential district.
- I. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use.

## COLUMBUS ZONING ORDINANCE

J. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).

K. Temporary uses. (Ord. No. 2239, §224.2; Prior Code, §35-176)

L. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.34.040 Conditional Use.**

The following conditional uses shall be permitted in the B-5 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

A. RESERVED (Ord. No. 52, §III, 12-19-95)

B. Engineering or research laboratory, in accordance with Section 17.61.070 C.(Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.34.045 Connection to Water and Sewer Facilities.**

In a B-5 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.34.050 Lot Size.**

The minimum lot size in a B-5 District shall be as follows:

A. Area: Ten thousand (10,000) square feet.

B. Frontage: One hundred (100) feet. (Ord. No. 2239, §224.4; Prior Code, §35-178)

C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.34.060 Setback Lines.**

The minimum setback lines in a B-5 District shall be as follows:

A. Front: As regulated in Section 17.42.020. The minimum required front setback distance may contain off-street parking. The setback area may contain parking. Each street frontage is a front property line. (Ord. No. 49, §III, 12-5-95)

B. Side and rear: Ten (10) feet where the lot line abuts other business or industrial district lot lines. Such setback distance may contain off-street parking.

C. Transitional: In any instance where a front, side or rear business lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be sixty (60) feet plus one-half of the right-of-way established by the Thoroughfare Plan in front and forty (40) feet in side and rear. Parking requirements within the front setback distance shall be as regulated in Section 17.34.060 A. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 49, §3, 11-1-94)

The transitional setback distance shall be used only for landscaping, driveways, or parking. Such transitional setback distance may be measured to the centerline of an abutting alley which is dedicated and separates the side or rear lot line from an adjacent residential district. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §III, 12-5-95).

### **Section 17.34.065 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.34.070 Height Restriction.**

## COLUMBUS ZONING ORDINANCE

The maximum building height permitted shall be forty (40) feet in a B-5 District. (Ord. No. 2239, §224.6; Prior Code, §35-180)

### **Section 17.34.080 Floor Area.**

The total floor area of a building in a B-5 District shall not exceed one hundred percent (100%) of the lot area. (Ord. No. 2239, §224.7; Prior Code, §35-181)

### **Section 17.34.090 Off-Street Parking and Loading.**

The off-street parking and loading space in a B-5 District shall be as regulated in Section 17.44. (Ord. No. 2239, §224.8; Prior Code, §35-182)

### **Section 17.34.100 Signs.**

The signs in a B-5 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §224.8; Prior Code, §35-183; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.36 I-1 RESTRICTED INDUSTRIAL DISTRICT**

### **Section 17.36.010 Intention of District.**

The I-1 Restricted Industrial District is intended for the type of industrial operations that are conducted within completely enclosed buildings in such a manner that nuisance factors are not emitted outside the building. (Ord. No. 2239, §230; Prior Code, §35-184; Ord. No. 49, §III, 12-5-95)

### **Section 17.36.020 Permitted Uses.**

Within any I-1 Restricted Industrial District, no building, structure or premises shall be used or arranged or designed to be used except for any one (1) or more of the following uses:

- A. Engineering or research laboratories, vocational or industrial training facilities, data processing or analysis.
- B. Light manufacturing, including processing, refining, fabricating, assembling, cleaning, testing or repairing of goods, materials or products; provided, that uses with objectionable characteristics are deemed to be conditional uses.
- C. Railroad or other mass transportation rights-of-way and trackage, including passenger stations, shelter stations and layover areas for transit vehicles and off-street parking facilities; provided, that such uses, except rights-of-way, shall not extend within twenty (20) feet of a residential district.
- D. Enclosed wholesaling, warehousing, packaging, storage or distribution facilities.
- E. General offices associated with an industrial use, including service facilities for employees or guests; provided, that any service facilities shall be entirely enclosed within a building.
- F. Printing, lithographing, publishing or photography establishments.
- G. Utility installations and facilities.
- H. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use, including recreational areas for employees and lodging facilities for owners, guards or caretakers.
- I. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).
- J. Temporary uses. (Ord. No. 2239, §230.1; Prior Code, §35-185)
- K. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.36.030 Conditional Use.**

## COLUMBUS ZONING ORDINANCE

The following conditional uses shall be permitted in the I-1 District upon approval by the Board of Zoning Appeals, in accordance with regulations in Section 17.61.060:

Retail sales directly related to the industrial use (i.e., factory store). (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.36.040 Lot Size.**

The minimum lot size in the I-1 District shall be as follows:

- A. Area: Ten thousand (10,000) square feet.
- B. Frontage: One hundred (100) feet. (Ord. No. 2239, §230.3; Prior Code, §35-187)
- C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86.2, §1, 3-18-86)

### **Section 17.36.045 Connection to Water and Sewer Facilities.**

In an I-1 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.36.050 Setback Lines.**

A. Front: As regulated in Section 17.42.020. The setback area may contain parking. Each street frontage is a front property line. (Ord. No. 49, §III, 12-5-95)

B. Side and rear: Ten (10) feet where the lot line abuts other industrial district lot lines; provided, that where the lot line abuts a railroad operating right-of-way, the building shall be permitted to abut such railroad right-of-way. The minimum required side and rear setback distance may contain off-street parking in accordance with the provisions of this Subsection.

C. Transitional: In any instance where a front, side or rear business lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be sixty (60) feet plus one-half of the right-of-way established by the Thoroughfare Plan in front and forty (40) feet in side and rear and provided with landscaping. The transitional setback distance shall be used only for landscaping, driveways, or parking. Parking requirements within the front setback distance shall be as regulated in Section 17.36.050 A. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §3, 11-1-94, Ord. No. 49, §III, 12-5-95)

### **Section 17.36.055 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.36.060 Height Restrictions.**

In the I-1 District, the maximum building height permitted shall be forty (40) feet; provided, that additional height shall be permitted to the maximum extent of one hundred (100) feet when additional setback distance is provided to the minimum extent of two (2) feet for each five (5) feet in height over such forty (40) feet. (Ord. No. 2239, §230.5; Prior Code, §35-189)

### **Section 17.36.070 Performance Standards.**

A. All uses in the I-1 Restricted Industrial District shall conform to the general performance standards set forth in Section 17.02.210, and prior to the issuance of an improvement location permit the following requirements shall be met:

## COLUMBUS ZONING ORDINANCE

1. Plans and specifications for proposed sewage disposal facilities, unless a connection is being made to a public sewer, and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from the Stream Pollution Control Board of the State and the City Health Department.

2. Written approval of proposed connection to a public sewer shall be obtained from the City Utility Service Board.

3. Plans specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the City Engineer.

B. All outdoor storage of materials or products shall be landscaped in accordance with the provisions of Chapter 17.43. (Ord. No. 2239, §230.6; Prior Code, §35-190; Ord. No. 49, §III, 12-5-95)

### **Section 17.36.080 Off-Street Parking and Loading.**

The off-street parking and loading space in the I-1 District shall be as regulated in Section 17.44. (Ord. No. 2239, §230.7; Prior Code, §35-191)

### **Section 17.36.090 Signs.**

The signs in the I-1 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §230.8; Prior Code, §35-192; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.38 I-2 MEDIUM INDUSTRIAL DISTRICT**

### **Section 17.38.010 Intention of District.**

The I-2 Medium Industrial District is intended as an intermediate district for industries which are heavier in character than those permitted in the light manufacturing grouping but which are not of the heaviest industrial types. This district is established for existing industries and the expansion of older industrial areas wherever possible. (Ord. No. 2239, §231; Prior Code, §35-193; Ord. No. 49, §III, 12-5-95)

### **Section 17.38.020 Permitted Uses.**

Within any I-2 Medium Industrial District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any use permitted in the I-1 District.
- B. Bakery, secondary food processing, milk processing, manufacture and bottling of dairy products and beverages.
- C. Manufacture and assembly of glass, plastic and rubber products and implements.
- D. Manufacture of colors, dye, paint and other coatings, excluding tar products.
- E. Machine, welding, tool and die shops and electroplating operations.
- F. Manufacture of cloth, jewelry and leather products.
- G. Biological, medical and cosmetic manufacturing.
- H. Manufacture and assembly of optical goods, musical and recording instruments, office machinery, electrical and mechanical.
- I. Manufacture and assembly of marine, office, household appliances, furniture, communication and automobile equipment, air conditioning, heating and refrigeration equipment.
- J. Can and container manufacture, processing and milling of forest products.
- K. Dyeing and cleaning works and services such as linen suppliers, freight movers and communication and canteen operations.
- L. Trucking and railroad terminals.
- M. Upholstering and leather goods manufacture.
- N. Cannery, bottling, processing and packaging of food and beverages, granaries, grain processing and starch manufacture.

## COLUMBUS ZONING ORDINANCE

O. Radio, facsimile and television towers, including broadcasting studios and radio or television business offices. (Ord. No. 2239, §231.1; Prior Code, §35-194)

P. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).

Q. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.38.030 Conditional Use.**

The following conditional uses shall be permitted in the I-2 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

Retail sales directly related to the industrial use (i.e., factory store). (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.38.035 Connection to Water and Sewer Facilities.**

In an I-2 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.38.040 Lot Size.**

The minimum lot size in the I-2 District shall be as follows:

- A. Area: Ten thousand (10,000) square feet.
- B. Frontage: One hundred (100) feet. (Ord. No. 2239, §231.3; Prior Code, §35-196)
- C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 2-18-86)

### **Section 17.38.050 Setback Lines.**

A. Front: As regulated in Section 17.42.020. Each street frontage is a front property line. (Ord. No. 49, §III, 12-5-95)

B. Side and rear: Ten (10) feet where the lot line abuts other industrial district lot lines; provided, that where the lot line abuts a railroad operating right-of-way the building shall be permitted to abut such railroad right-of-way. The minimum required side and rear setback distance may contain off-street parking in accordance with the provisions of this Subsection.

C. Transitional: In any instance where a front, side or rear industrial lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be sixty (60) feet plus one-half of the right-of-way established by the Thoroughfare Plan in front and fifty (50) feet in side and rear. The transitional setback distance shall be used only for landscaping, driveways, or parking. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §3, 11-1-94; Ord. No. 49, §III, 12-5-95)

### **Section 17.38.055 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

### **Section 17.38.060 Height Restrictions.**

In the I-2 District, the maximum building height permitted shall be fifty (50) feet, provided that, additional height shall be permitted to the maximum extent of one hundred (100) feet when additional setback distance is

## COLUMBUS ZONING ORDINANCE

provided to the minimum extent of two (2) feet for each five (5) feet in height over such fifty (50) feet. (Ord. No. 2239, §231.5; Prior Code, §35-198)

### **Section 17.38.070 Performance Standards.**

A. All uses in the I-2 Medium Industrial District shall conform to the general performance standards set forth in Section 17.02.210, and prior to the issuance of an improvement location permit the following requirements shall be met:

1. Plans and specifications for proposed sewage disposal facilities, unless a connection is being made to a public sewer, and industrial waste treatment and disposal facilities shall be submitted to and written approval obtained from the Stream Pollution Control Board of the State and the City Health Department.

2. Written approval of proposed connection to a public sewer shall be obtained from the City Utility Service Board.

3. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the City Engineer.

B. All operations, servicing or processing located within three hundred (300) feet of a residential district, except storage and off-street loading, shall be conducted within completely enclosed buildings.

C. All outside storage of materials or products located within three hundred (300) feet of a residential district shall be within enclosed buildings, or landscaped in accordance with the provisions of Chapter 17.43. (Ord. No. 49, §III, 12-5-95)

D. Outside operations and storage areas shall in any case be enclosed with fencing or other barrier. (Ord. No. 2239, §231.6; Prior Code, §35-199)

### **Section 17.38.080 Off-Street Parking and Loading.**

The off-street parking and loading in the I-2 District shall be as regulated in Section 17.44. (Ord. No. 2239, §231.7; Prior Code, §35-200)

### **Section 17.38.090 Signs.**

The signs in the I-2 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §231.7; Prior Code, §35-201; Ord. No. 94-41, §3, 10-5-94)

## **CHAPTER 17.40**

### **I-3 HEAVY INDUSTRIAL DISTRICT**

#### **Section 17.40.010 Intention of District.**

The I-3 Heavy Industrial District is intended for those heavy industrial uses which are typically characterized by objectionable factors which are exceedingly difficult to eliminate. These industries are therefore buffered by sufficient area to minimize any adverse effects, and wherever practical, this district is removed as far as possible from residential areas and buffered by intervening lighter industrial districts. (Ord. No. 2239, §232; Prior Code, §35-202)

#### **Section 17.40.020 Permitted Uses.**

Within any I-3 Heavy Industrial District, no building, structure or premises shall be used or arranged or designed to be used except for one (1) or more of the following uses:

- A. Any use permitted in the I-2 District.
- B. Creosote manufacturing and treatment and bulk storage of petroleum products.
- C. Foundries, smelting operations, metal forging, fabricating, rolling and stamping operations.
- D. Boiler tank manufacturing and structural steel fabricating, general manufacturing and assembly plants.
- E. Railroad equipment manufacturing, repair and service yards.
- F. Manufacture of detergents and soaps, pharmaceutical and paper products.

## COLUMBUS ZONING ORDINANCE

- G. Manufacture of malt products, brewing, distillation of liquor and spirits and poultry hatchery.
- H. Monument works and stone cutting.
- I. Thermal, electric and steam power plants.
- J. Concrete mixing, production of concrete blocks and shapes, cinder blocks and other similar building materials manufacture.
- K. Sand, gravel or aggregate washing, screening or processing. (Ord. No. 2239, §232.1; Prior Code, §35-203)
- L. Dwelling unit as an accessory use as a residence for an operator or employee of a business located on the premises. No more than one such dwelling unit shall be permitted on a single parcel of land. (Ord. No. 98-15, §III, 5-6-98).
- M. Other uses comparable and compatible to those set forth in this Section. (Ord. No. 4, §III, 2-1-94)

### **Section 17.40.030 Conditional Use.**

The following conditional uses shall be permitted in the I-3 District upon approval by the Board of Zoning Appeals, in accordance with the regulations in Section 17.61.060:

Retail sales directly related to the industrial use (i.e., factory store). (Ord. No. 4, §III, 2-1-94, Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.40.035 Connection to Water and Sewer Facilities.**

In an I-3 District, attachment to public or semipublic water and sanitary sewer facilities shall be mandatory. The water system shall provide flows acceptable to the Columbus Fire Department and shall have flows and levels of service sufficient to maintain an Insurance Services Organization rating at least equivalent to that held by the City of Columbus. Sewage treatment shall be provided by a municipally owned or controlled sewage treatment plant. This section does not apply to a legal lot of record created before September 7, 1999, provided that the lot is capable of containing a water supply and a sewage disposal system acceptable to the Bartholomew County Health Department. (Ord. No. 25, §3, 9-7-99; Ord. No. 21, 7-1-03)

### **Section 17.40.040 Lot Size.**

The minimum lot size in the I-3 District shall be as follows:

- A. Area: Forty thousand (40,000) square feet.
- B. Frontage: Two hundred (200) feet. (Ord. No. 2239, §232.3; Prior Code, §35-205)
- C. Width and frontage exception for cul-de-sac: See Section 17.42.240. (Ord. No. 86-2, §1, 3-18-86)

### **Section 17.40.050 Setback Lines.**

The minimum setback lines in the I-3 District shall be as follows:

- A. Front: As regulated in Section 17.42.020. (Ord. No. 49, §III, 12-5-95)
- B. Side and rear: Twenty (20) feet where the lot line abuts other industrial district lot lines; provided, that where the lot line abuts a railroad operating right-of-way the building shall be permitted to abut such railroad right-of-way. The minimum required side and rear setback distance may contain off-street parking in accordance with the provisions of this Subsection.
- C. Transitional: In any instance where a front, side or rear industrial lot line faces a residential district on the opposite side of the street or abuts a residential district, the minimum required setback distance shall be seventy-five (75) feet plus one-half of the right-of-way established by the Thoroughfare Plan in front and sixty (60) feet in side and rear and provided with landscaping. The transitional setback distance shall be used only for landscaping, driveways, or parking. All setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 86-2, §1, 3-18-86; Ord. No. 50, §3, 11-6-91; Ord. No. 49, §3, 11-1-94; Ord. No. 49, §III, 12-5-95)

### **Section 17.40.055 Landscaping**

Landscaping shall be provided in accordance with Chapter 17.43 of this Title. (Ord. No. 49, §49, 12-5-95).

## COLUMBUS ZONING ORDINANCE

### **Section 17.40.060 Height Restriction.**

In the I-3 District, the maximum building height permitted shall be sixty (60) feet; provided, that additional height shall be permitted to the maximum extent of one hundred (100) feet when additional setback distance is provided to the minimum extent of two (2) feet for each five (5) feet in height over such sixty (60) feet. (Ord. No. 2239, §232.5; Prior Code, §35-207)

### **Section 17.40.070 Performance Standards.**

A. All uses in the I-3 Heavy Industrial District shall conform to the general performance standards set forth in Section 17.02.210 and prior to the issuance of an improvement location permit the following requirements shall be met:

1. Plans and specifications for proposed sewage disposal facilities, unless a connection is being made to a public sewer, and industrial waste treatment and disposal facilities, shall be submitted to and written approval obtained from the Stream Pollution Control Board of the State and the City Health Department.

2. Written approval of proposed connection to a public sewer shall be obtained from the City Utility Service Board.

3. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the City Engineer.

B. All operations, servicing or processing located within three hundred (300) feet of a residential district, except storage and off-street loading, shall be conducted within completely enclosed buildings.

C. All outside storage of materials or products located within three hundred (300) feet of a residential district shall be within enclosed buildings or landscaped in accordance with the provisions of Chapter 17.43. (Ord. No. 49, §III, 12-5-95)

D. Outside operations and storage areas shall in any case be enclosed with fencing or other barrier. (Ord. No. 2239, §232.7; Prior Code, §35-208)

### **Section 17.40.080 Off-Street Parking and Loading.**

The off-street parking and loading space in the I-3 District shall be as regulated in Section 17.44. (Ord. No. 2239, §232.7, Prior Code, §35-209)

### **Section 17.40.090 Signs.**

The signs in the I-3 District shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §232.7; Prior Code, §35-210; Ord. No. 94-41, §3, 10-5-94)

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# COLUMBUS ZONING ORDINANCE

## CHAPTER 17.42 SUPPLEMENTARY DISTRICT REGULATIONS

### **Section 17.42.010 Effect.**

The general provisions set forth in this Chapter qualify or supplement district regulations, and are declared to be a part of this Title. (Ord. No. 2239, §250; Prior Code, §35-229)

### **Section 17.42.020 Building Setback Lines.**

A. Unless otherwise stated in this ordinance, building setback lines shall be required along all public streets as provided in this Section. Any yard abutting a public street or private street, or a Reserved Right-of-Way as determined by the Thoroughfare Plan, shall be deemed a front yard for purpose of determining front building setback lines. In no case may any structure encroach into the right-of-way established by the Thoroughfare Plan without prior approval from the Board of Works. For purposes of this Section, the term “center line” shall be defined as a line parallel to and one-half the distance between the right-of-way boundaries (Ord. No. 49, §3, 11-1-94; Ord. No. 25, §3, 9-7-99; Ord. No. \_\_\_\_, 2-4-03)

B. Such setback lines for unimproved blocks shall be determined in accordance with the street functional classification designated in the Thoroughfare Plan and the public street design standards in the Subdivision Control Ordinance of current adoption, whichever is greater. If the actual right-of-way width is greater than the minimum required, the setback shall be the same as if the right-of-way width were the minimum required; provided, however, that in no case shall the setback line for any unimproved block be less than twenty (20) feet from the nearest right-of-way boundary to the nearest plane of a garage or other structure intended to house an automobile, measured perpendicularly; or ten (10) feet from the nearest right-of-way boundary to the nearest plane of any structure other than a garage, measured perpendicularly. If the Plan Commission and/or Board of Works has reduced the right-of-way width from the minimum required by the Thoroughfare Plan, the minimum setback on each side shall be reduced by an amount equal to one-half the total reduced right-of-way width. (Ord. No. \_\_\_\_, 2-4-03)

C. Minimum setback distances for unimproved blocks are as follows:

1. Expressway or primary arterial. No part of any structure shall be built closer than one hundred (100) feet to the center line of an expressway or primary arterial. (Ord. No. 49, §3, 11-1-94)
2. Secondary or one-way arterial. No part of any structure shall be built closer than eighty (80) feet to the center line of a secondary arterial or one-way arterial. (Ord. No. 49, §3, 11-1-94)
3. Collector street. No part of any structure shall be built closer than sixty-five (65) feet to the center line of a collector street. (Ord. No. 49, §3, 11-1-94)
4. Local street, marginal access street or cul-de-sac thereof. No part of any structure shall be built closer than fifty (50) feet to the center line of a local street; except, that minimum setback line shall be thirty-five (35) feet to the center line of a marginal access street or the vehicular turn around of any local cul-de-sac. (Ord. No. 49, §3, 11-1-94)

5. For the purpose of this Section an improved block shall be defined as any block which contains at least three (3) lots or parcels, each containing a legally established building. For the purposes of this Section, a block consists of two (2) sides of the street, not interrupted by any streets. In any case where a proposed building site has no buildings within 300 feet in either direction on the same side of the street, the property shall be considered to be in an unimproved block. (Ord. No. 49, §3, 11-1-94; Ord. No. 3 §III, 2-3-98; Ord. No. \_\_\_\_, 2-4-03)

D. Setback lines for improved blocks shall be in accordance with the setback distance already established. In any improved block, the minimum required building setback line for any new building shall be the average of such established setback line on the applicable side of the street, provided that such structure does not encroach into the right-of-way as established by the Thoroughfare Plan. (Ord. No. 49, §3, 11-1-94; Ord. No. \_\_\_\_, 2-4-03)

E. Such setback lines shall be as required in this Section with the following exceptions:

1. As provided in Sections 17.42.050 to 17.42.080 for customary front yard exceptions.

## COLUMBUS ZONING ORDINANCE

2. In case of conflict with the front setback requirements of the zoning districts and transitional setback lines thereof, special uses or other applicable provisions of this Title, the higher or most restrictive requirement shall govern.

F. Any street not designated on the thoroughfare plan of current adoption shall be assumed to be a local street designation for the purpose of determining the building setback line, unless the city engineer determines that a higher classification applies.

G. Private streets shall be considered to be local streets for the purposes of this Section.

H. Setbacks from Reserved Rights-of-Way as determined by the Thoroughfare Plan shall meet the minimum requirements of this Section for unimproved or improved blocks, as applicable. Setbacks from Reserved Rights-of-Way shall be calculated from the Reserved Right-of-Way center line, or the best approximation of the center line as determined by the city engineer. (Ord. No. 2239, §251; Prior Code, §17.42.020; Ord. No. 49, §3, 11-1-94; Ord. No. \_\_\_\_, 2-4-03)

### **Section 17.42.030 Distance Between Buildings.**

A. In any zone district in which multi-family residential buildings are permitted by this Title, two (2) or more such detached primary buildings shall be permitted on a lot in accordance with minimum interior yard requirements between all buildings as specified in this Section.

B. The required minimum depth of such yards shall be determined in relation to the height and length of each such building wall and the placement of windows therein, as follows:

1. If the wall contains one (1) or more windows, the minimum depth of its yard shall be ten (10) feet, plus two (2) feet for each story in height plus one (1) foot for each fifteen (15) feet in length of such wall.

2. If the wall contains no windows, the minimum depth of its yard shall be five (5) feet, plus one (1) foot for each story in height, plus one (1) foot for each fifteen (15) feet in length of such wall.

3. The minimum depth of yards for the purpose of this Subsection, shall be measured perpendicular to the building wall at all points.

C. Such distance between buildings shall in no case be less than the sum of the required minimum depth of such adjoining yards. Required yards may overlap; provided, that such overlapping does not decrease the above minimum yard distances separating buildings.

D. After any portion of a lot has been developed under the provisions of this Section, such lot may be divided into smaller lots only if each resulting lot and buildings thereon conform to all the regulations of the zone district in which such lot is located. (Ord. No. 2239, §252; Prior Code, §35-231)

### **Section 17.42.040 Sidewalks.**

A. Sidewalks meeting standards established by the Office of the City Engineer shall be provided along all street frontages. This requirement is waived for one- or two-family dwellings to be constructed on lots in existing subdivisions planned and developed without sidewalks. The requirement for sidewalk installation is satisfied if the city holds a valid financial guarantee for the installation of the sidewalks.

B. Sidewalks or other pedestrian ways approved by the Plan Commission in conjunction with a subdivision shall be installed in accordance with the provisions of the Subdivision Control Ordinance.

C. No zoning compliance certificate shall be issued for any new building construction, new parking lot, or other permanent open-air use unless sidewalks meeting the requirements of this section are included on the site plan. Sidewalk installation may be delayed for a period not to exceed six (6) months, provided that a financial guarantee is posted with the city. Acceptable guarantees include an irrevocable letter of credit, certified check, performance bond, or other guarantee acceptable to the city attorney. Such guarantee shall be equal to one hundred twenty-five (125) percent of the cost of the materials and installation and shall be accompanied by a written assurance that such sidewalk installation will be completed to the satisfaction of the City within a specified period not to exceed six months from the date the Zoning Compliance Certificate (project completion section) or Certificate of Occupancy is issued. (Ord. No. 25, §3, 9-7-99)

## COLUMBUS ZONING ORDINANCE

### **Section 17.42.050 Yard Exceptions--Application.**

A. Any yard or setback line so placed or oriented that none of the specific ordinance terms are applicable shall necessitate a determination by the administrative official of a suitable dimension as generally required for a similar situation in the zone district.

B. Minimum required yards or building setback distances shall be unobstructed and open to the sky, except for customary projections and temporary storage as provided by this Chapter and signs in accordance with Chapter 17.46 of this Title. (Ord. No. 2239, §254.1; Prior Code, §35-233; Ord. No. 94-41, §3, 10-5-94)

### **Section 17.42.060 Encroachments.**

A. No structure or part thereof shall project into a required front yard except the following:

1. An eave, cornice, overhang, awning, balcony or bay window not exceeding four (4) feet; provided, that such encroachment shall not protrude closer than twenty (20) feet to a front lot line.

2. The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental and architectural features not exceeding eighteen (18) inches.

3. Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level and not to project a distance in excess of ten (10) feet.

B. No structure or part thereof shall project into a required side or rear yard except the following:

1. An eave, cornice overhang, awning, balcony or bay window not exceeding four (4) feet; provided, that such encroachment shall not protrude closer than five (5) feet to any side or rear lot line.

2. The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental and architectural features not exceeding eighteen (18) inches; provided, that such encroachment shall not protrude closer than five (5) feet to any side or rear lot line.

3. Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level. (Ord. No. 2239, §254.2; Prior Code, §35-234)

### **Section 17.42.070 Fences and Walls.**

A. Ornamental fences, walls and structural screens may be permitted in any required side or rear yard or setback distance; in accordance with the accessory structure height requirements of the respective zone district. Ornamental fences, walls and structural screens may be permitted in any required front yard in accordance with the accessory structure height requirements of the respective zone district; provided, that no fence, wall, or structural screen in a front yard toward which a structure is oriented may be allowed to exceed 42" in height. The height shall be determined by measurement perpendicular from the nearest ground level. All fences, walls, and structural screens are also subject to the requirements of Section 17.42.090.

B. Nothing contained in this Section shall be deemed to prohibit the erection or maintenance of an open fence in connection with agricultural uses, recreation use or the public safety or a security fence in nonresidential districts.

C. The provisions of this Section shall not apply to retaining walls. (Ord. No. 47, §3, 10-15-91)

### **Section 17.42.080 Storage.**

A. No portion of any required yard shall be used for the permanent storage of motor vehicles, trailers, airplanes, boats or parts thereof or of any rubbish, garbage, junk, tent or building materials, except during construction and in accordance with the terms of this Title.

B. Permanent storage for purpose of this Section shall be construed as the presence of such storage for a period of forty-eight (48) consecutive hours in any one (1) week period. (Ord. No. 2239; §254.4; Prior Code, §35-236)

### **Section 17.42.090 Intersection Visibility.**

A. Nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) feet and ten (10) feet above the centerline grades of intersecting streets and drives. The "visibility triangle" is hereby established as follows:

## COLUMBUS ZONING ORDINANCE

1. For corner lots, the triangle is defined as the area formed by the street center lines and a line connecting points seventy-five (75) feet for local and collector streets, and one-hundred fifty (150) feet for arterial streets from the intersection of such street center lines.

2. Upon the occasion when a driveway or alley intersects with a local or collector street, the visibility triangle is formed by the center lines of driveways, alleys and streets and a line connecting points 40 feet for driveways and alleys and 75 feet for local and collector streets.

3. Upon the occasion when a driveway or alley intersects with an arterial street, the visibility triangle is formed by the center lines of driveways, alleys and streets and a line connecting points 65 feet for driveways and alleys and 150 feet for arterial streets.

B. Notwithstanding (a), above, plantings, structures and other improvements may be permitted within the visibility triangle if the City engineer makes a determination that such improvement will not impede visibility. In no case shall anything be erected, placed, planted or allowed to grow within the visibility triangle as established in Section 10.04.070 of the City Code.

C. The provisions of this Section shall not apply to official warning signs or signals necessary to the public safety. (Ord. No. 2239, §255; Prior Code, §35-237; Ord. No. 47, §3, 10-15-91; Ord. No. 94-41, §3, 10-5-94)

### **Section 17.42.100 Access and Frontage.**

Every building hereafter erected or moved shall be located on a lot with frontage and access on a public street, or with frontage and access to an approved private street or access easement, and all buildings shall be so located on lots as to provide for safe and convenient access, on-site circulation, fire protection, and required off-street parking. (Ord. No. 2239, §256; Prior Code, §35-238)

### **Section 17.42.110 One Primary Structure Per Lot; Maintenance of Interior Roads.**

In any district, no more than one (1) primary structure and its customary accessory uses shall be located on a single lot; except that primary structures designed and platted as a single unit under single ownership and control, such as a multi-family residential project, business shopping center or combined industrial operations, may be permissible on a single lot under the terms of this ordinance in accordance with the following:

A. All interior access roads and driveways shall be paved with concrete or improved with a compacted aggregate base and surfaces with an asphaltic pavement, to adequately provide a durable and dust-free surface.

B. Interior access roads and driveways shall be privately maintained, but not by governmental agencies, in good condition and free of weeds, dirt, trash and debris.

C. Where interior access roads or driveways intersect with public streets, a turning radius of not less than ten (10) feet shall be provided.

D. Interior access roads and driveways shall be clearly defined, delineated and signed for public safety.

E. No sight obstruction shall be located within a required turning radius in such a manner as to conflict with the provisions of Section 17.42.090.

F. Interior access roads and driveways shall be designed with sufficient width to provide at all times for the passage of emergency vehicles.

G. After any portion of a lot has been developed under the provisions of this Section, such lot may be divided into smaller lots only if each resulting lot and buildings thereon conform to all the regulations of the zone district in which such lot is located. (Ord. No. 2239, §257; Ord. No. 2396; Prior Code, §35-239)

H. A dwelling unit which is nonconforming due to its location in a business or industrial district may continue to be used as a dwelling in combination with conforming business or industrial use of the property. (Ord. No. 98-15,

### **Section 17.42.120 Conversions Generally.**

A. In nonresidential zone districts, those existing structures that have been primarily designed for residential use shall not be structurally altered on the exterior or facade to indicate business or industrial use, except in cases of complete renovation of the premises in compliance with the requirements of the zone district. In cases of a question as to the applicability of this requirement, such proposed conversion shall be deemed a conditional use and placed before the Board of Zoning Appeals, in accordance with Section 17.61.060.

## COLUMBUS ZONING ORDINANCE

B. In applicable residential zone districts, existing one (1) or two (2) family dwellings may be converted into additional dwelling or rooming units only when such existing building, by reason of its size and the character of the neighborhood in which it is located makes such dwelling unsuitable or uneconomic for its intended use.

1. It is the purpose of this Section to discourage the conversion of existing dwellings originally designed for occupancy by three (3) families or less to occupancy by more than three (3) families when such conversion is likely to lead to overcrowding, to lack of privacy, to lack of sufficient light and air, to unsafe or unsanitary living conditions or to inadequate provisions for off-street parking and open space.

2. Such conversions shall be consistent with the purposes of other applicable ordinances, this Code and programs, including housing and building codes, renewal programs and fire safety and utility programs.

3. In connection with such conversion, there shall be no evidence of change in the building to indicate the extra dwelling units, except as may be required by such ordinances, this Code and programs; all fire escapes or stairways leading to a second or higher floor shall be completely enclosed within the converted building and no dwelling shall be so converted unless in connection therewith it be placed in a reasonable state of repair.

4. In cases of a question as to the applicability of these standards, such proposed conversion shall be deemed a conditional use and placed before the Board of Zoning Appeals, in accordance with Section 17.61.060. (Ord. No. 2239, §258; Prior Code, §35-240)

### **Section 17.42.130 Relocated Buildings to Conform to Regulations.**

No building or structure shall be moved from one lot or premises to another unless such building shall thereupon conform to all the regulations of the zone district to which such building shall be moved. (Ord. No. 2239, §259; Prior Code, §35-241)

### **Section 17.42.140 Height Exceptions.**

The height limitations contained in the zone district regulations do not apply to spires, belfries, cupolas, parapets, silos and farm structures, antennas, water tanks, ventilators, chimneys, towers or other appurtenances usually required to be placed above the roof level; provided that:

A. Such appurtenances are not intended for human occupancy.

B. Such appurtenances as towers of mechanical or structural necessity with a roof area equal to or in excess of fifty percent (50%) of the average floor area of the building shall be considered a part of the height of the building. (Ord. No. 2239, §260; Prior Code, §35-242)

### **Section 17.42.150 Temporary Use of Mobile Homes and Construction Trailers.** (Ord. No. 14, §3, 3-5-95)

In any zone district in which construction trailers are permitted as temporary uses during construction, as provided in Chapter 17.54 of this Title, the Commission may grant an occupancy permit subject to the following conditions: (Ord. No. 14, §3, 3-5-95)

A. The construction trailer is situated at the construction site and is occupied only by persons directly engaged in the supervision of the construction of the structure or development. (Ord. No. 14, §3, 3-5-95)

B. All yard and setback requirements of the district in which the construction trailer is located are complied with. (Ord. No. 14, §3, 3-5-95)

C. All health and sanitary regulations of the County Health Department and the State Board of Health are complied with.

D. Safe temporary connection to the electrical utility system is made in a manner approved by the City Building Commissioner.

E. A temporary occupancy permit is issued for a specified period of time only upon demonstration by the applicant of a validly approved improvement location permit for a permanent structure or development. Such temporary permit may be renewed for an additional specified period, in accordance with Chapter 17.54 of this Title, only if the applicant demonstrates that unavoidable circumstances caused a construction delay. (Ord. No. 2239, §261; Prior Code, §35-243)

### **Section 17.42.160 Reserved**

## COLUMBUS ZONING ORDINANCE

### **Section 17.42.170     Reserved**

### **Section 17.42.180     Above-ground Storage and Bulk Storage of Flammable Liquids, Gases, and Other Materials.**

For all front setbacks, such setback shall equal the setback outlined below plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and Section 17.02.020. (Ord. No. 49, §3, 11-1-94)

A. The above-ground bulk storage of flammable or combustible liquids, gases, and other materials, including explosives and blasting agents, shall be set back from lot lines in industrial districts in accordance with the current Indiana Flammable & Combustible Liquids and Gases Code (675 IAC 22-1) and the current Indiana Fire Prevention Code (675 IAC 22-2). Front setbacks from street right-of-way shall be governed by the more restrictive of the following:

1. As regulated in Section 17.42.020 of the Columbus Zoning Ordinance; or
2. As regulated in the current Indiana Flammable & Combustible Liquids and Gases Code (675 IAC 22-1) or the current Indiana Fire Prevention Code (675 IAC 22-2).

B. Whenever an industrial lot line abuts a residential district boundary, faces a residential district on the opposite side of the street, abuts a lot containing an existing residential dwelling located in a commercial or industrial district, or abuts a lot containing a public building (school, church, day care center, nursing home, etc.); the setback for the above-ground bulk storage of flammable or combustible liquids, gases, and other materials, including explosives and blasting agents, shall be at least two (2) times the requirements of the current Indiana Flammable & Combustible Liquids and Gases Code (675 IAC 22-1) and the current Indiana Fire Prevention Code (675 IAC 22-2) except that it shall not be less than 200 feet.

C. The above-ground bulk storage of flammable or combustible liquids, gases, and other materials shall in all other ways comply with all federal, state, and local laws.

D. Above-ground storage tanks containing gasoline, diesel, or other flammable or combustible liquids shall not be permitted by service station uses or any other use which dispenses gasoline and other flammables for public consumption. The setback for above-ground storage of flammable or combustible liquids and gases in industrial or commercial districts shall be governed by the more restrictive of the following:

1. Such storage shall be located at least 100 feet from the property line adjoining a residential district and 100 feet from a lot containing a public building or existing residential dwelling; or
2. As regulated by the current Indiana Flammable & Combustible Liquids and Gases Code (675 IAC 22-1) or the current Indiana Fire Prevention Code (675 IAC 22-2). Such aggregate storage shall be limited to 50,000 gallons (water capacity) in the range from 100 to 200 feet from a residential district line or any lot containing a public building or residential dwelling.

E. All other above-ground storage of flammable or combustible liquids, gases, and other materials which are not included in the definitions of "bulk storage" and "storage" or that are not included elsewhere in the regulations of this Section shall be regulated in accordance with the current Indiana Flammable & Combustible Liquids and Gases Code (675 IAC 22-1), the current Indiana Fire Prevention Code (675 IAC 22-2) and all other local, state, and federal laws.

F. Any variance from these standards will require approval by the Board of Zoning Appeals. This variance may be granted only if the Board finds that the general welfare and safety of the community will not be affected by the granting of this variance (extra protection measures are provided, etc.), that this variance is the minimum necessary, and that all other federal, state and local standards are adequately met.

### **Section 17.42.190     Supplementary General, Traffic and Open-Air Business Standards.**

In any zone district, where applicable, the following standards shall supplement the business use requirements of the zone district:

A. The following are general standards:

1. No amplification of radio music or other audio advertising shall be permitted on the premises.

## COLUMBUS ZONING ORDINANCE

2. No lights utilizing an attracting device or lights or stringers of unshielded incandescent lamps or attention attracting lighting from apparatus of a type used by emergency vehicles shall be permitted on the premises.

3. There shall be no exterior displays which restrict visibility in any way or which impede the movement of any vehicles. All such displays shall be maintained in an orderly manner.

4. Adequate indoor or outdoor trash containers shall be required; provided, that trash containers exceeding six (6) cubic feet shall be located within a solid, decorative stall behind or beside the primary structure.

5. Adequate employees and customer off-street parking area shall be provided, including such areas incidental to display, service and repair. No such parking shall be permitted on driveway approaches, landscape areas, adjacent alleys or streets, on any public right-of-way or in such a manner as to restrict motorists' visibility.

6. No vending machines shall be permitted on the exterior of any building on the premises except where contained in a shelter, stall or other area so located as not to interfere materially with the use of adjoining property.

B. The following deal with traffic congestion:

1. The number of traffic access points for establishments with one hundred (100) feet or less of frontage on a street shall not exceed one (1).

2. Whenever practicable, for establishments with frontage of more than one hundred (100) feet, a service road shall be provided, of not less than two (2) lanes in width or a combined service road and parking area, parallel with and adjacent to the street upon which the establishments front. In the event the establishments front on more than one (1) street, such service roads may be required on more than one (1) street frontage.

3. The service road required by this Subsection shall be effectively separated from the main roadway by a landscape strip or other suitable delineation, and shall be designed and arranged so as to provide the principal means of access to abutting business establishments.

4. In general, the use of public improved alleys, interior access roads or any other designed means to minimize the number of traffic access points and business intersections therein are encouraged.

C. Any establishment where the principal uses are the drive-in, drive-through, or open-air type of business operation shall be subject to the following standards:

1. Gasoline pump islands, canopies and support posts, or other free standing accessory devices which are essential to the operation of the business must observe a setback line of at least fifteen (15) feet. However, no structure or device authorized by this Section shall be located in such a manner as to impede intersection visibility. For all front setbacks, such setback shall equal the setback outlined above plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Section 17.42.020 and 17.02.020. (Ord. No. 55, 2-7-86; Ord. No. 49, §3, 11-1-94)

2. Such business uses shall be limited to the characteristics customarily associated with such use and no other.

3. Car wash establishments shall provide auto waiting spaces according to the following:

a. Not less than five (5) spaces at the entrance and three (3) outdoor drying and finishing spaces at the exit of each wash bay of a self-service car wash establishment.

b. Not less than twenty (20) spaces at the entrance and six (6) outdoor drying and finishing spaces at the exit of each wash bay of an automatic or semiautomatic car wash establishment. (Ord. No. 2239, 265; Prior Code §35-247)

4. Drive-through establishments shall provide vehicle storage as follows:

a. Drive-through restaurants shall provide a minimum of four storage spaces before the menu board and the pickup window (not including the vehicles which are at the menu board or the pickup window). If there is a pay window between the menu board and the pickup window, the storage spaces before the pay window may be counted as part of the four required between the menu board and the pickup window. Drive-through restaurants which combine the ordering, payment, and pickup of food at the same window must provide at least nine storage spaces per window, in addition to the one vehicle at the window. (Ord. No. 19, §3, 4-2-91)

b. Drive-through banks, credit unions, or other financial institutions shall provide vehicle storage based on the following chart:

## COLUMBUS ZONING ORDINANCE

<u># of Windows</u>	<u># Storage Spaces per Window</u>	<u>Total Spaces</u>
1 or 2	10	20
3	7	21
4	5	20
5	4	20
6 or more	3	n/a

c. Other drive-through establishments (utility companies, ATMs, dry cleaners, laundries, etc.) should provide a minimum of two storage spaces per window, or such additional spaces determined necessary by the city engineer.

d. Vehicular storage spaces must be a minimum of 20 feet in length, and may not include those vehicles at the window or order board, if there is one. The drive-through lane must be a minimum of 10 feet wide, clearly marked, and required storage spaces may not interfere with site ingress or egress, or on-site circulation.

5. All drive-through establishments shall be subject to plan review and approval by the city engineer prior to the issuance of any building permits. At a minimum this review shall include off-site and on-site traffic circulation related to the use, including turning movement and compatibility with pedestrian circulation. (Ord. No. 49, §3, 8-21-90)

### **Section 17.42.200    RESERVED**

(Ord. No. 2239, §266; Prior Code, §35-248; Ord. No. 52, §III, 12-19-95)

### **Section 17.42.210    Parking and Storage of Certain Vehicles.**

A. Automotive vehicles or trailers of any type without current license plates or in an inoperable condition, so as to be deemed dead storage, shall be prohibited in residential zone districts other than in completely enclosed buildings, and shall not be parked or stored in any zone district unless specifically authorized under the terms of this Title.

B. The parking of a commercial, self-propelled vehicle in residential zone districts shall be prohibited; except, that one (1) commercial vehicle of not more than three (3) tons capacity may be parked on any lot on which there is located a principal building; provided further, that such vehicle is parked in an enclosed garage, accessory building or rear yard and is used by a resident of the premises. This regulation shall not be interpreted to prohibit commercial vehicles from temporary loading and unloading in any residential zone district. (Ord. No. 2239, §267; Prior Code, §35-249)

### **Section 17.42.220    RESERVED** (Ord. No. 14, 1999 §3, 5-18-99)

### **Section 17.42.240    Width and Frontage Exceptions for Cul-de-Sac Lots.**

Minimum width and frontage requirements for cul-de-sacs in each district shall be as follows (Ord. No. 2806, §1):

<u>District</u>	<u>Minimum Width in Feet</u>	<u>Minimum Frontage in Feet</u>
R-5	300	150
R-6	80	40
R-7	100	50
RB	100	50
B-1	50	40
B-2	50	40
B-4	100	50
B-5	100	50
I-1	100	50

## COLUMBUS ZONING ORDINANCE

I-2	100	50
I-3	150	75

### CHAPTER 17.43 LANDSCAPING

#### Section 17.43.010 Purpose; General Provisions

A. This Chapter is intended to implement the landscaping goals adopted as part of the Comprehensive Plan for the City of Columbus, Indiana.

B. Legally nonconforming structures, land, or uses may be expanded only under the provisions of Chapter 17.60.

C. No landscaping shall be installed which interferes with achieving the purposes of Section 17.42.090, Intersection Visibility; Chapter 17.48, Airport Hazard Zone; or Chapter 17.62, Floodplain Regulations. This Section does not relieve the landscaping requirements of this Chapter, but it requires that the landscaping which is installed is consistent with the purposes of this Title.

D. Any determination made by the staff under the terms of this Chapter may be appealed to the Landscape Committee established under Section 17.43.050 of this Chapter and/or to the Board of Zoning Appeals.

E. For the purposes of this chapter, the term “front yard” shall mean the area between each facade of a primary structure and the property line in front of such facade adjacent to a public street, if any; provided, however, that “designated front yard” shall mean the area directly between each facade of a primary structure located on a single parcel of land and used for multi-family purposes, and the property line adjacent to a public street if any, plus triangular parcels on each side of such area, each commencing from the corner of the primary structure and proceeding to the closest point of the adjacent public street, continuing along the public street for the lesser of (i) 100 feet or (ii) the point where the property line changes direction; and then back to the starting corner of the primary structure. If a primary structure has more than one corner on either side facing a public street, such as an “L” shaped building or similar layout, the corner furthest from the public street shall be used for this calculation. A primary structure may have more than one front yard. (Ord. No. 34, §3, 7-1-97, Ord. No. 22, §3, 9-7-99)

#### Section 17.43.020 Amount of Landscaping Required

A. Landscaping is required in the following zoning districts: PD, RB, B-1, B-2, B-4, B-5, I-1, I-2, I-3, and SU Districts, and for multifamily or manufactured home developments in the R-5, R-6, R-7 and R-8 districts. In PD and SU districts and in any other case requiring development or site plan review by the Plan Commission, the amount of landscaping will be determined by the Plan Commission as part of the review of the plans. In all other districts, the minimum amount of landscaping required shall be determined in accordance with this Section.

B. The amount of landscaping required for each parcel is based upon a point system. The number of points required is calculated as follows:

1. Multiply the number of square feet in the lot by .03 (no. of sq. ft. of lot area x .03 = A).
2. Multiply the number of square feet in the lot by .07 (no. of sq. ft. of lot area x .07 = B).
3. Multiply the number of linear feet of net frontage by 15 (no. of linear feet of frontage x 15 = C). *Net frontage* is the number of linear feet of frontage on a street less the number of linear feet of frontage used for driveways.
4. If the result from Calculation 3 is less than that for Calculation 1, then Calculation 1 is the number of points required. If the result from Calculation 3 is more than that for Calculation 2, then Calculation 2 is the number of points required. If the result from Calculation 3 is between that for Calculation 1 and Calculation 2, then Calculation 3 is the number of points required. (If  $C \leq A$ , then  $A$  = minimum required points. If  $C \geq B$ , then  $B$  = minimum required points. If  $A < C < B$ , then  $C$  = minimum points required.)

## COLUMBUS ZONING ORDINANCE

C. A minimum of 25% of the required points must be earned by landscaping within a front yard or designated front yard, as applicable. In the case of (i) two street frontages, at least 20% of the required points must be applied toward each front yard or designated front yard; (ii) three or four street frontages, at least 15% of the required points must be applied toward each front yard or designated front yard. (Ord. No. 22, §3, 9-7-99)

D. Table 17.43.1 shows the points which may be earned for different types of landscape elements. Points are available for preservation of existing trees which meet the standards set forth in this Section or for installation of new landscaping which meets the standards set forth in this Section.

1. Existing individual trees are entitled to points only if they are rated according to city standards as “good” or “excellent” and are protected during and after construction in accordance with current industry standards. Groups of trees are entitled to points only if at least seventy-five (75) percent of the trees are living.

2. Each tree or group of trees earning points must be identified on the landscape plan, and the species and size must be indicated. Each tree or group of trees to be preserved must also be clearly marked in the field.

3. Groups of trees are eligible for points only if the area containing the trees is at least five thousand (5,000) square feet in area and the density of trees is at least twelve (12) trees per five thousand (5,000) square feet. The number of points is calculated as follows:  $1.5 \times \text{square footage of canopy covered} = \text{points earned}$

E. Landscaping must be maintained after installation. Any parcel on which required landscape materials, including preserved trees, are not maintained in accordance with this ordinance shall be considered to be in violation of this Chapter. If plant material for which points were awarded is removed or dies, it must be replaced with landscaping that earns an equivalent number of points, if the total number of points for that parcel falls below the minimum required.

F. No partial points will be awarded.

G. A maximum of ten (10) percent of the required points may be earned by use of bulbs, perennials, ground covers, grasses, annuals, vines and climbers.

H. All living landscape material planted to satisfy landscape requirements must meet the standards set forth in the most recent edition *American Standard for Nursery Stock* approved by the American National Standards Institute, Inc.

### Section 17.43.030 Buffering Requirements

A. The following buffer types are hereby established:

1. TYPE A: A solid, opaque buffer with a minimum height of six (6) feet. A fence or wall may be used to create the opaque buffer provided that at least fifty (50) percent of the length of the fence or wall along each property line is landscaped on the outside of the fence or wall, or evergreens are used in lieu of fifty (50) percent of the fence or wall. The spacing of the landscaping must comply with Section 17.43.030 F. A berm built in accordance with Section 17.43.030 M may be used in combination with landscaping, as long as the landscaping meets the standards set forth in Section 17.43.030 F. (Ord. No. 34, §3, 7-1-97)

2. TYPE B: A densely planted buffer which need not be opaque for its entire length. At least fifty (50) percent of the length of the buffer along each property line must be opaque. The remaining fifty (50) percent of the length of the buffer along each property line may contain any combination of small shrubs or larger which will comply with Section 17.43.030 H 8. A berm built in accordance with Section 17.43.030 M may be used instead of shrubs. (Ord. No. 34, §3, 7-1-97)

3. TYPE C: Less dense planting, which may include deciduous plants. At least fifty (50) percent of the length of the buffer must be planted with large or medium trees, and the remaining fifty (50) percent of the buffer length may be any combination of shrubs, excluding dwarf shrubs, which will comply with Section 17.43.030 H. A berm built in accordance with Section 17.43.030 M may be used instead of shrubs. (Ord. No. 34, §3, 7-1-97)

B. Buffering between zoning classifications is required in accordance with Table 17.43.2. When more than one zoning abuts the property to be landscaped, the most opaque of the buffers shall apply. (Ord. No. 34, §3, 7-1-97)

C. For development adjacent to any undeveloped residentially or agriculturally zoned parcels, a buffer is required only if there is at least one dwelling or one platted residential lot within a 660-foot radius of the commercial or industrial property line which is adjacent to the residential or agricultural zoning.

## COLUMBUS ZONING ORDINANCE

D. Buffers may earn points to fulfill the requirements of Section 17.43.020; however, the buffer is required even if the minimum required points are earned elsewhere on site.

E. All plants used to fulfill buffer requirements must meet the minimum size standards indicated on Table 17.43.1 and must meet the standards set forth in the most recent edition of *American Standard for Nursery Stock* published by the American National Standards Institute, Inc. (Ord. No. 34, §3, 7-1-97)

F. When fences or walls are used to fulfill requirements for Type A, B, or C buffers, the maximum length of each continuous fence or wall segment without landscaping shall be fifty (50) feet. Longer segments must be provided with landscaping in accordance with Section 17.43.030 H along the outside of a wall or fence, or planting meeting the buffer type requirements in lieu of a fence or wall segment.

Dwarf shrubs and ground cover may be planted on the outside of a fence or wall, but these will not count toward the buffering requirement. These plants may earn points as indicated on Table 17.43.1.

G. If evergreens are used to fulfill the requirements for an opaque buffer, total opacity and a minimum height of six (6) feet shall be required within three (3) years after issuance of an occupancy permit or zoning compliance certificate. If the planting does not meet these requirements within three (3) years, additional plantings or a fence or wall meeting these requirements shall be constructed and landscaped as required under Section 17.43.030 A.

H. Each fifty (50)-linear-foot segment of buffer, including plantings on the outside of a wall or fence as described in Section 17.43.030 F shall contain landscaping equivalent to two (2) large trees, as defined on Table 17.43.1. For purposes of this section, the following are considered equivalent and may be used in any combination which achieves at least the minimum amount required:

1. two (2) large trees
2. three (3) medium or small trees
3. ten (10) large shrubs
4. fifteen (15) medium or small shrubs

I. No proposed building addition, structure, merchandise display, parking area or any similar feature shall be located in front of or within a required buffer. Notwithstanding the above, a driveway entrance may cross a buffer.

J. Required buffers must be installed on the subject property, within the required setback. The minimum width of the buffer is ten (10) feet. The soil in each buffer area must be covered by trees, shrubs, grass, ground cover, landscape gravel, or mulch.

K. Screening of Loading Areas, Mechanical Areas & Outside Storage

1. Loading areas, mechanical areas, and outside storage areas located within side or rear yards shall be provided with buffers as described on Table 17.43.2.

2. Loading and mechanical areas within front yards must be provided with buffers as follows:

a. Within an industrial park containing five (5) or more lots, a Type C buffer must be provided. (Ord. No. 34, §3, 7-1-97)

b. For all other loading areas within front yards, a Type B buffer must be provided.

3. For outside storage areas, a Type A buffer must be provided within the front yard, but not necessarily at the property line.

L. Frontage Screening of Multifamily, Manufactured Home, and Recreational Vehicle Park Developments:

All multifamily, manufactured home, and recreational vehicle park developments must install a buffer Type "C" along public street frontage.

Berms which are used to fulfill buffer requirements must have a three-foot minimum height, a two-to-one (2:1) maximum slope, and a two-foot minimum width at the crown. Height is measured in a vertical plane from grade at the edge of pavement of the adjacent street to the highest point on the berm. If there is not a street adjacent to the berm location, height shall be measured in a vertical plane from grade at the property line to the highest point of the berm. For purposes of height measurement, adjacent land does not include swales, ditches, or other similar topographic features. (Ord. No. 34, §3, 7-1-97)

### Section 17.43.040 Landscape Requirements for Parking Areas

## COLUMBUS ZONING ORDINANCE

A. Parking areas shall contain landscaping as indicated on Table 17.43.3.

B. Parking Areas within Front Yards:

Each off-street parking areas located in a front yard shall be subject to landscaping requirements, regardless of parking area size or zoning district. A parking area containing fewer than one hundred (100) parking spaces may be landscaped with either frontage or interior plantings, in accordance with the specifications of this chapter.

C. Parking Area Frontage Landscaping:

Each off-street parking areas containing one hundred (100) or more parking spaces shall be landscaped along each street frontage, regardless of zoning district. The minimum width of a buffer area is five (5) feet.

1. In front yards along public or private street frontages and access easements, landscaping must meet landscape buffer "Type C" requirements.

2. Parking areas across a street or access easement from residentially zoned property shall contain an opaque screen located in such a manner as to protect the residentially zoned property from headlight glare. Such screen shall be a minimum of three (3) feet tall and a maximum of four (4) feet tall landscaped in the same manner as a "Type A" buffer. If a berm is used, it must have a three-foot (3') minimum height, a two-to-one (2:1) maximum slope, and a two-foot (2') minimum width at the crown. Height is measured from the grade of the parking area.

C. Interior Parking Area Landscaping:

Each off-street parking area containing two hundred (200) or more parking spaces shall contain interior landscaping in addition to the frontage landscaping, regardless of zoning district. Minimum standards for interior parking area landscaping are as follows:

1. Trees Required: Deciduous trees must be provided. Trees shall be planted and maintained according to either of the following ratios, or in any equivalent combination, based upon the total number of parking spaces.

a. A minimum of one large deciduous tree, as defined on Table 17.43.1, for each twenty (20) parking spaces. Trees must be clear of branching to at least six (6) feet at maturity.

b. A minimum of one medium deciduous tree, as defined on Table 17.43.1, for each ten (10) parking spaces. Trees must be clear of branching to at least six (6) feet at maturity.

2. Ground Plantings: The area not covered by the canopy of the tree, but within an interior landscape area, must be covered by shrubs, grass, ground cover, landscape gravel, or mulch. Plants in this category may not interfere with visibility. All plants must be living, thriving, and assuming their intended form.

3. Size of Interior Landscape Area:

Each landscape area must be at least five (5) feet wide where perpendicular to parking spaces, or nine feet wide when parallel to parking spaces. Widths are inclusive of curbs, if curbs are provided.

### **Section 17.43.050. Alternative Approval Procedure**

This Chapter is intended to implement the goals and policies of the Comprehensive Plan. Landscape plans which do not comply with the minimum requirements of Section 17.43.020 may be consistent with these goals and policies. The procedure set forth in this Section is intended to provide for greater flexibility than is possible under the foregoing sections of this Chapter.

A. A landscape review committee is hereby established. The committee shall consist of three (3) members appointed by the Plan Commission for terms of three (3) years. The members shall include the following:

1. one (1) citizen member of the plan commission

2. one (1) person with knowledge of landscaping as evidenced by registration as a landscape architect, higher education in horticulture, or similar training

3. one (1) person interested in landscaping and community development.

B. The committee shall have the authority to approve plans not complying with the specifications set forth in Section 17.43.020 provided that the committee finds that the plan is consistent with the spirit and intent of this Chapter. Conditions which may justify committee approval include but are not limited to the following:

1. Topography, soil, vegetation or other site conditions are such that compliance is impossible or impractical;

## COLUMBUS ZONING ORDINANCE

2. Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify approval for infill sites, for improvements and/or redevelopment in older neighborhoods and similar conditions;

3. Change of use on an existing site requires additional landscaping in an amount which is impractical to provide;

4. Safety considerations make compliance unwise;

5. Less than fifty (50) percent of the lot is being developed, and a landscape phasing schedule is proposed.

6. The landscape plan includes desirable elements not included on Table 17.43.1, such as but not limited to hardscape, water features, specimen trees, decorative walls or fences.

The committee may approve plans in which all or some of the landscaping is located within the right-of-way established by the Thoroughfare Plan if the committee finds that such location is the best way to satisfy the intent of this Chapter.

C. The Landscape Review Committee may approve plans proposed under this section only upon a finding that the proposal is consistent with the spirit and intent of this Chapter in terms fulfilling the goals and policies of the Comprehensive Plan. In making its determination, the committee shall consider the quality, effectiveness, durability, and hardness of the proposed landscape elements.

D. Landscape Review Committee decisions shall be specific to the project under consideration.

E. The Landscape Review Committee may place such conditions upon any approval as it deems necessary to ensure that the spirit and intent of this Chapter is upheld.

F. Applications to the committee shall be filed in accordance with the Plan Commission Rules of Procedure.

G. If the Landscape Review Committee finds that a request for landscape plan approval does not meet the required criteria, the decision may be appealed to the full plan commission. Notice by the applicant of the desire to appeal must be received within 30 days of the Landscape Review Committee decision.

### **Section 17.43.060. Maintenance**

A. Plants used to achieve the minimum number of required points under the terms of Section 17.43.020 or plants installed to fulfill requirements of other Sections of this Chapter must be living, thriving, and assuming their intended form. Dead plants must be replaced with plants earning at least the same number of points.

B. Notwithstanding Subsection A, plants receiving points for preservation as specified on Table 17.43.1 need not be replaced if they are removed by a government entity or public utility.

### **Section 17.43.070. Assurances for Installation and Completion**

A. The staff shall not issue a Zoning Compliance Certificate or Certificate of Occupancy for any structure or parcel of land unless the landscaping complies with the provisions of this Chapter. All landscaping must be inspected for conformity to the approved landscape plan before a Zoning Compliance Certificate or Certificate of Occupancy is issued.

B. Notwithstanding Subsection A above, some or all required landscaping may be delayed for a period not to exceed six (6) months, provided that a financial guarantee is posted with the city. Acceptable guarantees include an irrevocable letter of credit, certified check, performance bond, or other guarantee acceptable to the city attorney. Such guarantee shall be equal to one hundred twenty-five (125) percent of the cost of the materials and installation and shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the City within a specified period not to exceed 6 months from the date the Zoning Compliance Certificate (project completion section) or Certificate of Occupancy is issued.

### **Section 17.43.080. Violations and Penalties**

A. Any landscaping required by the ordinance which is not installed and maintained in the manner required by the ordinance is hereby declared to be a common nuisance and the owner or possessor of the structure, land or premises shall be liable for maintaining a common nuisance, which may be restrained, enjoined, abated or otherwise pursued by legal or equitable proceedings in a court of competent jurisdiction.

B. The following shall be deemed civil zoning violations:

## COLUMBUS ZONING ORDINANCE

1. The failure to install landscaping required by this Chapter within the required time frame.
  2. The failure to install landscaping as shown on an approved plan.
  3. Removal of required landscaping without replacement with landscaping earning an equivalent number of points.
  4. Dead plant materials where healthy, living plants are required.
- C. The staff is authorized to enforce the provisions of this Chapter in the manner set forth in Section 17.46.090 of this Title, with the following exceptions specific to this Chapter:
1. Unless a compliance deadline has already been established by the Board of Zoning Appeals or Plan Commission or a Zoning Compliance Certificate or Certificate of Occupancy, a person receiving a warning ticket as specified in Section 17.46.090 E 3 b shall be allowed not less than three (3) nor more than six (6) months to correct the violation. The amount of time permitted for correction of a violation under this section shall be reasonably related to weather conditions affecting installation of landscape materials.
  2. A person who files a petition as specified in Section 17.46.090 E 3 shall correct the violation within not less than three (3) nor more than six (6) months after denial, withdrawal, or dismissal of the petition.

**Table 17.43.1Landscape Points** (\*No additional points given for preserving these plants)

	PRESERVATION		NEW INSTALLATION	
PLANT TYPE	MINIMUM SIZE	POINTS	MINIMUM SIZE	POINTS
Large Deciduous Tree (maturity > 40' tall)	6" caliper	700	2" - 2½" caliper	300
Large Evergreen Tree (maturity > 40')	25' height	500	6' - 8' height	120
Medium Deciduous Tree (maturity 26' - 40' tall)	4" caliper	400	2" - 2½" caliper	180
Medium Evergreen Tree (maturity 26' - 40' tall)	15' height	400	6' - 8' height	100
Small Deciduous Tree (maturity 13' - 25' tall)	4" caliper	200	2" caliper	100
Large Shrubs (maturity > 13' tall)	30" - 36" height	50*	30" - 36" height	50*
Medium Shrubs (maturity 6 ½' - 13' tall)	2' -3' B&B <u>or</u> 3 gallon container	35*	2' -3' B&B <u>or</u> 3-gal. container	35*
Small Shrubs (maturity 3' - 6' tall)	2' -3' B&B <u>or</u> 3 gallon container	15*	2' -3' B&B <u>or</u> 3- gal. container	15*
Dwarf Shrubs (maturity < 3' tall)	15" spread <u>or</u> 3 gallon container	10*	15" spread <u>or</u> 3- gal. container	10*
Ground Covers	2½" peat pot, plant 12" on center	1* for 6 sq. ft.	2½" peat pot, plant 12" on center	1* for 6 sq. ft.
Perennials, Vines & Climbers	1 gallon container	3*	1 gallon container	3*

## COLUMBUS ZONING ORDINANCE

Bulbs, Annuals, Grass	plant bulbs and annuals 12" on center	1* for 175 sq. ft.	plant bulbs and annuals 12" on center	1* for 175 sq. ft.
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**Table 17.43.2**  
**Buffers Between Zoning Districts (Side and Rear Yards)**

SUBJECT PROPERTY ZONING														
A D J A C E N T  P R O P E R T Y  Z O N I N G		R-5	R-6	R-7	R-8	RB	B-1	B-2	B-3	B-4	B-5	I-1	I-2	I-3
		Required Buffer Type												
	AG	C*	C*	C*	C*	none B*	none B*	none B*	none B*	none C*	none C*	none C*	none C*	A
	RS	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-1	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-2	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-3	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-4	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-5	C*	B*	B*	A	A	A	A	A	A	A	A	A	A
	R-6		none	none	A	A	A	A	A	A	A	A	A	A
	R-7			none	A	A	A	A	A	A	A	A	A	A
	R-8				none	A	A	A	A	A	A	A	A	A
	RB					none	none	none	none	none	B	none	B	B
	B-1						none	none	none	none	none	none	B	B
	B-2							none	none	none	none	none	B	B
	B-3								none	none	none	none	B	B
	B-4									none	none	none	none	B
	B-5										none	none	none	B
	I-1											none	none	B
	I-2												none	none
	I-3													none

\* These buffers are required to be installed in R-5, R-6, R-7, and R-8 districts only if the subject property is used for multifamily dwellings or for a manufactured home park and in RB through I-2 only if there is a residence or platted

## COLUMBUS ZONING ORDINANCE

dwelling within 660 feet of any property line of the commercial or industrial zoning. For purposes of this Chapter only, multifamily development means only a development containing one or more buildings each containing 3 or more dwelling units. (Ord. No. 34, §3, 7-1-97)

**Table 17.43.3 Parking Area Landscape Requirements**

Number of Parking Spaces	Front Yard		Side and/or Rear Yards	
	Across from Residential Zoning*	Across from Other Zoning Districts	Adjacent to Residential Zoning*	Adjacent to Other Zoning Districts
<b>Fewer than 100 spaces</b>	3' tall opaque frontage screen	Interior <b>OR</b> frontage landscaping	Refer to buffer requirements	Refer to buffer requirements
<b>100 to 200 spaces</b>	3' tall opaque frontage screen	Frontage landscaping	Refer to buffer requirements	Refer to buffer requirements
<b>More than 200 spaces</b>	Interior plantings required <b>AND</b> 3' tall opaque frontage screen	Interior <b>AND</b> frontage landscaping	Interior plantings required. Also refer to buffer requirements	Interior plantings required. Also refer to buffer requirements

\* The AG, Agriculture District, is a residential district. For purposes of this section, landscaping is required only if there is one residence or at least one platted residential lot within a 660-foot radius of an adjacent commercial or industrial property line.

## CHAPTER 17.44 OFF-STREET PARKING AND LOADING

### **Section 17.44.010 Facilities Required; Purpose.**

A. Accessory off-street parking and loading facilities shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this Title in accordance with the provisions of this Chapter.

B. This Chapter is designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for on-site storage of motor vehicles in accordance with the use to which the property is occupied. (Ord. No. 2239, §306.1; Prior Code, §35-252)

### **Section 17.44.020 Scope.**

A. No use lawfully established prior to the effective date of this Title shall be required to provide and maintain the parking and loading requirements of this Title; provided, that off-street parking and loading spaces required by any previous ordinance adopted pursuant to Section 53-701 et seq., Burns' Stat., shall be continued and maintained. For any proposed building or structure for which a building permit has been issued, the provisions of Section 17.60.010 shall apply.

B. For any nonconforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, reestablished or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, that in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Title for equivalent new uses.

## COLUMBUS ZONING ORDINANCE

C. When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking and loading facilities as required in this Chapter shall be provided for such increase in intensity of use.

D. Whenever the existing use of a building, structure or premises shall hereafter be changed or converted to a new use permitted by this Title, parking and loading facilities shall be provided as required for such new use.

E. Accessory off-street parking or loading facilities in existence on the effective date of this Title shall not hereafter be reduced below, or if already less than shall not be further reduced below, the requirements for a similar new use under the Sections of this Title.

F. Nothing in this Title shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve any existing use of land or buildings; provided, that all regulations herein governing the location, design and operation of such facilities are adhered to.

G. Accessory off-street parking and loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this Title, and may be situated as one or more individual areas.

H. Accessory off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use; provided, that all regulations governing location of accessory parking spaces, in relation to the use served, are adhered to; provided further, that no parking space or portion thereof shall serve as a required space for more than one (1) use unless otherwise authorized by the Board of Zoning Appeals.

I. Accessory off-street parking and loading facilities provided to comply with the Sections of this Title shall not subsequently be reduced below the requirements of this Title.

J. Accessory off-street parking facilities required in this Section shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity, of patrons, occupants or employees of specified uses. Such parking facilities shall not be used for the storage, display, sales, repair, dismantling or wrecking of any vehicle, equipment or material.

K. Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces. (Ord. No. 2239, §306.2; Prior Code, §35-253)

### **Section 17.44.030 Sizes and Dimensions; How to Determine Required Number of Spaces; When to Provide Accessory Spaces.**

A. Each required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance. For parallel parking, the length of the parking space shall be increased to twenty-three (23) feet.

B. Each required off-street loading space shall be of a size not less than that required for an off-street parking space but scaled larger to delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles when required off-street parking spaces are filled.

C. Except on lots occupied by one (1) and two (2) family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. In order to provide safe and efficient means of vehicular access to such parking space, the additional width and design required in parking spaces shall be in accordance with the following table:

<b>Parking Angle</b>	<b>Aisle Width</b>
45 degrees	14 feet
60 degrees	18 feet
90 degrees	24 feet

The parking angle shall be measured between the center line of the parking space and the center line of the aisle.

D. All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

## COLUMBUS ZONING ORDINANCE

E. In determining the minimum required number of off-street parking or loading spaces, the following instructions shall be applicable in such computations:

1. If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, such fraction shall be considered as being the next unit and shall be counted as requiring one (1) space.

2. In sports arenas, churches and other places of assembly in which patrons occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating shall be counted as one (1) seat for the purpose of determining requirements hereunder.

3. In the case of open floor areas used for temporary seating purposes, an area of sixteen (16) square feet usable for seating shall be counted as one (1) seat for the purpose of determining requirements hereunder.

F. Accessory off-street parking areas may count toward the open space requirements of this Title.

G. Accessory off-street parking and loading areas shall be provided to the rear of the required front building setback line, wherever practical. If a loading area is located in a front yard, it must be landscaped in accordance with the provisions of Chapter 17.43. (Ord. No. 2239, §306.3; Prior Code, §35-254; Ord. No. 49, §III, 12-5-95)

### **Section 17.44.040 Space Requirements.**

The following minimum parking space requirements shall apply:

<b><u>Use Description</u></b>	<b><u>Number of Spaces Required</u></b>
A. Agricultural uses.	There shall be no requirement, except with respect to roadside stands and similar uses when an adequate number of spaces is required to serve the public.
B. Residential uses.	As required in the applicable Sections of this Title.
C. Institutional uses, including nursing homes, hospitals and similar institutions.	One parking space for each six hundred (600) square feet of gross floor area, or one (1) space for each four (4) patients' beds, whichever is greater, plus one (1) space for each two (2) employees per largest working shift.
D. Children's homes, day care centers, kindergartens, child care and similar institutions.	One (1) parking space for each six (6) children's beds, plus one (1) space for each two (2) employees per largest working shift.
E. Clubs, lodges, community centers, public buildings, utilities and public service uses including libraries, museums and similar places of assembly.	One (1) parking space for each eight hundred (800) square feet of gross floor area, or one (1) space for each two (2) employees per largest working shift, whichever is greater.
F. Philanthropic and charitable institutions.	One (1) parking space for each two (2) employees per largest working shift, plus an adequate number of spaces to serve the public.
G. Schools, public and private: 1. Elementary or junior high	At least three (3) parking spaces shall be provided for each classroom.

## COLUMBUS ZONING ORDINANCE

- |   |  |
|---|--|
| 2. High school  | At least six (6) parking spaces shall be provided for each classroom.  |
| 3. Sports Arena   | At least one (1) parking space shall be provided for each five (5) seats when the facility is of an independent nature. When such facility is utilized in conjunction with a school, either the parking requirement based on seating capacity of the largest single facility contained herein or the requirement based on classroom number shall be applicable, whichever results in the greater number of spaces. |
| H. Theaters, auditoriums, assembly halls, undertaking establishments and similar places of congregation.  | One (1) parking space for each five (5) seats in the main sanctuary or room, plus one (1) space for each employee per largest working shift.   |
| I. Churches.  | One (1) parking space for each three and one-half (3½) seats in the sanctuary and any overflow seating area directly connected to the sanctuary. (Ord. No. 2696, 1978, §1, 8-15-78)  |
| J. Colleges, universities, professional schools, junior colleges and vocational schools.  | 0.82 parking space for each student, based on the maximum number of students attending classes on the premises at any one (1) time during a twenty-four (24) hour period. If the school provides on-site housing, the requirement may be reduced to 0.5 parking space for each student. The school is responsible for furnishing the above information. (Ord. No. 42, §3, 10-1-91)                                 |
| K. Group housing, including rooming and boarding houses, dormitories, elderly housing, fraternities and sororities.   | One (1) parking space for each two (2) beds, or each two (2) sleeping units, rooming units or dwelling units in the case of elderly housing, plus one (1) space for each employee per largest working shift.   |
| L. Hotels, motels, apartment hotels and similar lodging and accommodation facilities for the transient public (exclusive of retail uses).   | One (1) parking space for each lodging room or dwelling unit, plus one (1) space for each five (5) employees per largest working shift.  |
| M. General business uses, offices, retail and service uses, except eating and drinking establishments.  | One (1) parking space for each two hundred (200) square feet of gross floor area.  |
| N. Eating and drinking establishments, including restaurants, lunch counters, taverns and night clubs, except drive-in restaurants or drive-through establishments. (Ord. No. 49, §3, 8-1-90) | One (1) parking space for each four (4) customer seats.  |

## COLUMBUS ZONING ORDINANCE

O. Drive-in restaurants. (Ord. No. 49, §3, 8-21-90)	Two (2) parking spaces for each one hundred (100) square feet of gross floor area, plus one space for each employee per largest working shift.
P. Open-air type business uses, including auto and boat sales, kennels, plant nurseries and commercial amusement establishments.	One (1) parking space for each employee per largest working shift, plus an adequate number of spaces to serve the public.
Q. Automobile service station uses.	One (1) parking space for each employee per largest working shift, plus two (2) spaces for each service stall.
R. Commercial, manufacturing and industrial establishments not catering to the retail trade.	One (1) parking space for each two (2) employees on the largest working shift, plus an adequate number of spaces for visitors and company vehicles operating from the premises.
S. Amusement establishments, including swimming pools, golf courses, bowling alleys, skating rinks and similar facilities.	One (1) parking space for each five hundred (500) square feet of gross floor area, or five (5) parking spaces for each hole, alley or one hundred (100) square feet of water area, whichever is greater.
T. Drive-through restaurants. (Ord. No. 49, §3, 8-21-90)	17.5 parking spaces for each one thousand (1,000) square feet of gross floor area.
U. Drive-through banks/financial institutions. (Ord. No. 49, §3, 8-21-90)	2.5 parking spaces for each one thousand (1,000) square feet of gross floor area.
V. Commercial Centers (all square footages in this Subsection refer to the total building area with no adjustment).	
<b>Size of Center:</b> Less than 50,000 sq. ft. 50,000 or more sq. ft. (Ord. No. 44, §3, 10-1-91)	<b>No. of Spaces:</b> 5 spaces per 1000 sq. ft. 4 spaces per 1000 sq. ft.

For uses not specified in this Section or in such instance when the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the administrative official on the basis of similar requirements, the number of persons served or employed and the capability of adequately serving the visiting public. Such determination may be reviewed by the Commission or appealed to the Board of Zoning Appeals.

In case of conflict between the provisions of this Section, the higher requirements shall govern.

For purposes of determining off-street parking requirements under this Section, gross floor area shall mean the total horizontal area of the one (1) or several floors of the building or portion thereof devoted to such use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods or to offices; provided, that gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities or space used for restrooms, utilities or elevator shafts. (Ord. No. 2239, §306.4; Prior Code, §35-255)

## COLUMBUS ZONING ORDINANCE

Phasing of the off-street parking requirements for churches may be deemed a conditional use, subject to Section 17.61.060 and the following provisions:

1. If the total parking requirement as established in Subsection I exceeds the projected initial attendance of the largest weekly service by over one hundred percent (100%), construction of parking areas for new churches may be phased in two (2) year periods over a maximum ten (10) year period, provided at least fifty percent (50%) of the required spaces are constructed at the time of initial occupancy.

2. The occupant shall cause the total parking demand to be evaluated and the conditional use to be renewed at the end of each two-year period from the date of initial occupancy and the total number of parking spaces shall provide for a ratio of one (1) space for every 3.5 persons on the premises at the weekly church service with the highest attendance. This highest attendance shall be an average of such highest attendance service for the month preceding the end of each two (2) year period. (Ord. No. 2239, §306.4; Ord. No. 2692 §1, 8-15-78)

### **Section 17.44.050 Off-Site Parking Facilities.**

A. Required off-street parking facilities shall be provided on site, except as provided in this Section. The Board of Zoning Appeals is authorized to grant an off-site parking facility as a conditional use in accordance with the conditions of this Section.

B. A site development plan for such off-site parking facility shall be filed with the Board of Zoning Appeals as a required exhibit accompanying the conditional use petition and shall be made part of the conditions of any approval therefor. Such site development plan shall demonstrate compliance with all applicable standards of this Title, shall be amended and reapproved to indicate any change or other modification of uses served, or number of parking spaces provided therefor, and shall indicate:

1. Adjacent streets, alleys and lots.
2. All individual primary uses to be served, including the location, use and number of parking spaces for each such use.
3. A layout drawn to scale of aisles and driveways, entrances, exits and turnoff lanes, parking spaces, setbacks, drainage facilities and landscaping. (Ord. No. 49, §III, 12-5-95)
4. Type of lighting and pavement proposed, and identification signs including location, size and design thereof.

C. In the B-3 District all or any part of an off-street parking requirement may be provided in an off-street parking reservoir which collects and combines such parking obligations into a common facility in order to further the objectives of the central business area plan.

1. Such off-site parking facilities may be located in an adjoining zone district within nine hundred (900) feet of the site served, such distance to be measured along the nearest pedestrian walkway from the nearest point of the site served to the nearest point of the separated off-street parking spaces; provided, that such off-site parking facilities shall not be located in a residential zone district.

2. In order to encourage the development of off-street parking reservoirs in accordance with the objectives of this Title, the number of required spaces per use utilizing such facility may be reduced to the extent of ten (10) percent below such off-street parking requirement. Such reduction shall be indicated on the approved site development plan.

3. Off-site parking facilities shall be provided with setback distances equivalent to the requirements of the zone district, and ingress and egress points shall be limited to protect the function of adjoining streets.

4. Each use utilizing off-site parking facilities to comply with off-street parking requirements of this Title shall be encumbered by proper notations on certificates of zoning compliance and placed of public record in the office of the County Recorder, which subject such accessory off-street parking facilities to parking uses in connection with the primary uses served.

5. Off-site parking facilities shall be developed in accordance with the provisions of Section 17.61.060; provided, that such facilities shall be developed under such conditions imposed by the Board of Zoning Appeals as to protect the objectives of this Title.

D. In all other instances, except Subsection C. of this Section, no more than forty percent (40%) of the required off-street parking spaces may be located off the specified site within three hundred (300) feet of such site,

## COLUMBUS ZONING ORDINANCE

such distance to be measured along the nearest pedestrian walkway from the nearest point of the site served to the nearest point of the separated off-street parking spaces; provided, that off-site parking facilities shall be located in the same zone district as the use served.

1. Off-site parking facilities shall be provided with setback distances equivalent to the requirements of the zone district, and ingress and egress points shall be limited to protect the function of adjoining streets.

2. Off-site parking facilities shall be encumbered by an instrument duly executed and acknowledged, which subject such accessory off-street parking facilities to parking uses in connection with the primary use served. Such instrument shall specify and bind the time period to the anticipated life of the building or use to which the parking facilities are accessory. Such instrument shall be recorded in the applicable zoning compliance permit files of the Commission, and placed of public record in the office of the County Recorder.

3. Off-site parking facilities shall be developed in accordance with the provisions of Section 17.61.060; provided, that such facilities shall be developed under the conditions imposed by the Board of Zoning Appeals as to protect residential districts and maintain at a minimum the disturbance to nearby residential uses. (Ord. No. 2239, §306.5; Prior Code, §35-256)

### **Section 17.44.060 Specifications and Standards Generally; Commercial Facilities.**

A. All off-street parking areas for four (4) or more automobiles shall be developed in accordance with the standards of this Section, except in the case of one and two family dwellings, agricultural and rural uses and storage of vehicular merchandise not counting toward the minimum requirements of this Title.

B. Required off-street parking spaces shall be so designed, arranged and regulated as to have individual spaces marked, be unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway.

C. Off-street parking spaces may be open to the sky or enclosed in a building. In any instance when a building is constructed or used by parking facilities on the zone lot, such building shall be treated as any major structure and subject to all requirements thereof.

D. No repair work, sales or service of any kind shall be permitted in association with accessory off-street parking facilities unless such facilities are enclosed in a building and otherwise permitted in the zone district.

E. All open off-street parking areas shall be surfaced with an all-weather paving material capable of carrying a wheel load of four thousand (4,000) pounds, or improved with concrete or a compacted macadam base and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash and debris; except, that:

1. A gravel surface may be used for a period not exceeding one (1) year after the date of granting the occupancy permit where ground conditions are not immediately suitable for permanent surfacing as specified in this Section.

2. A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.

F. Driveway entrances or exits shall be no closer than twenty-five (25) feet to an adjoining residential property line or ten (10) feet to an adjoining nonresidential property line or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of thirty (30) feet; provided, that two (2) driveways not exceeding thirty (30) feet in width each may constitute a single entrance-exit divider designed driveway; provided further, that such driveways shall conform to the requirements of engineering departments having jurisdiction thereof.

G. In any zone district, each use which is located that it fronts upon and provides access to an arterial thoroughfare shall provide a frontage lane paralleling and adjoining the improved part of the right-of-way at least eleven (11) feet in width for turn traffic entering the lot. Such frontage lane shall be at least one hundred (100) feet in length, exclusive of the entrance way and taper area; provided, that if the lot frontage is too small to meet such requirement, the frontage lane shall extend the entire width of the lot.

## COLUMBUS ZONING ORDINANCE

H. Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare unshaded bulbs be used for such illumination.

I. Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks. Further, any additional runoff generated by such improved areas shall be disposed of in appropriate drainage facilities.

J. Such parking areas shall be so lined or designated as to insure the most efficient use of the parking spaces and shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto any adjoining property.

K. Reserved. (Ord. No. 49, §III, 12-5-95)

M. Reserved. (Ord. No. 49, §III, 12-5-95)

N. Such parking areas may be provided with a one (1) story shelter building or guard building which shall not exceed one hundred (100) square feet of gross floor area and shall conform to all the structural requirements of the zone district. (Ord. No. 2239, §306.6; Prior Code, §35-257)

### **Section 17.44.070 Loading Requirements.**

A. Uses and buildings with a gross floor area of less than five thousand (5,000) square feet shall provide adequate receiving facilities, so as not to obstruct the free movement of pedestrians and vehicles over a sidewalk, street or alley.

B. Uses and buildings with a gross floor area of five thousand (5,000) square feet or more shall provide off-street loading spaces in accordance with the following table.

<u>Use Description</u>	<u>Floor Area in Square Feet</u>	<u>Number of Spaces Required</u>
Manufacturing, distribution, wholesaling, storage and similar uses	5,000 - 25,000	1
	25,001 - 60,000	2
	60,001 - 100,000	3
	Each 50,000 above 100,000	1
Office Buildings, hotels and motels, retail sales, hospitals, institutions and similar uses	5,000 - 60,000	1
	60,001 - 100,000	2
	Each 100,000 above 100,000	1

C. Off-street loading areas shall be developed in accordance with the standards in Section 17.44.060 or the regulations of the zone district, whichever is greater. (Ord. No. 2239, §306.7; Prior Code, §35-258)

## **CHAPTER 17.46 SIGNS**

### **Section 17.46.010 Statement of Purpose**

A. In accordance with the provisions of IC 36-7-4-601, this Chapter contains requirements which are intended to further the goals of the Comprehensive Plan. Specifically, the purposes of these sign regulations are to implement the following adopted policies of the City of Columbus:

1. To avoid proliferation of signs;
2. To maintain and enhance the aesthetic environment of the city;
3. To encourage signs to be compatible with the design of buildings and with the surrounding area;
4. Encourage simplicity and readability of signs;

## COLUMBUS ZONING ORDINANCE

5. Encourage employment of the principles of good design in community development;
6. To enhance the city's economic development and growth.
- B. It is the intent of this Chapter to encourage the design and placement of signs which are all of the following:
  1. Legible and effective for communication in the circumstances in which they are seen;
  2. Appropriate to the activity that displays them;
  3. Expressive of both the individual activity and the community as a whole, and
  4. Compatible with their surroundings.
- C. In order to accomplish the purposes set forth in this Section, this Chapter does the following:
  1. Allows certain signs to be displayed without permits in accordance with the requirements of this Chapter.
  2. Encourages signs which are in scale with the buildings and lots on which they are displayed.
  3. Defines the variety and types of signs that are allowed.
  4. Allows temporary signs to be displayed in accordance with the requirements of this Chapter.
  5. Provides for establishment of areas of special character, where the signs permitted to be displayed are related to the special character of these areas.
  6. Provides for sign development plans which may deviate from the regulations of this Chapter upon approval by the Plan Commission.
  7. Prohibits certain signs.
  8. Provides for the administration and enforcement of the provisions of this Chapter.
  9. Contains tables which indicate the types of signs permitted for different uses.

### **Section 17.46.020 Definitions**

The definitions contained in this Section are supplemental to the definitions contained in Section 17.02.020 of this Title. For the purposes of this Chapter only, wherever the definitions in Section 17.02.020 are inconsistent with those contained in this Chapter, this Chapter applies.

Above-roof sign: A sign displayed above the peak or parapet of a building. See also Roof sign.

Agricultural use: Any use qualifying as a "farm" under the terms of this Chapter.

Anchor occupant(s): A store, usually a chain or department store, that is strategically located in a shopping center so as to generate the maximum traffic for the smaller, satellite stores in the center. (Ord. No. 13, §3, 4-2-97)

Animation: Copy or other images that flash or move or otherwise change at intervals of more than once each 6 seconds. See also Movement.

Architectural detail: Any projection, relief, cornice, column, change of building material, window or door opening or similar feature on any building.

Architectural, scenic, historic area or city center: An area that contains unique visual or other characteristics which require special provisions to ensure that signs displayed within the area are compatible with the area.

Architectural sign: Letters less than 20 inches in height carved into or securely attached to a wall in such a way that they are an architectural detail of a building if they are not illuminated apart from the building, are not made of a reflecting material, and do not contrast sharply in color with the building.

Area: The total area of the face that is used to display a sign, not including its supporting poles or structures. If a sign has 2 faces that are parallel and supported by the same poles or structures, only one face is counted. If a sign has 2 or more faces that are supported by the same poles or structures but are not parallel, the area of the sign is the total area of all faces.

## COLUMBUS ZONING ORDINANCE

Awning: A cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position against the building when not in use.

Balloon: An inflated object no larger than 18 inches in diameter displayed at a height which is not above the roof line of the principal building on the premises, or if there is no principal building, not higher than 15 feet. A balloon is in contradistinction to an inflatable sign.

Banner: A sign on a lightweight fabric, or similar non-rigid material, that is attached by at least two corners of such sign, to a building or structure. Flags of any country, state, unit of local government, institution of higher learning, or similar institution are not considered to be banners. (Ord. No. 31, 1999, §III, 11-16-99)

Banner, Pole: A sign on a square, rectangular or triangular piece of lightweight fabric, or similar non-rigid material, that is attached on the longest side to a vertical pole, and is framed along the top and/or bottom by a solid structural unit attached to the pole to ensure that the pole banner hangs flat. (Ord. No. 31, 1999, §III, 11-16-99)

Bare-bulb illumination: A light source that consists of light bulbs with a 20-watt 120-volt maximum for each bulb.

Beacon: A portable light which is beamed into the sky and used to direct people to specific site. (Ord. No. 31, 1999, §III, 11-16-99)

Billboard: A sign that advertises products or services not sold or distributed on the premises on which the sign is located.

Canopy: A permanent roof-type structure, consisting of a roof supported by columns or poles (although one side may be attached to a building), with or without a fascia, but without walls, over gasoline pumps, automatic teller machines, vending machines or other equipment, which provides cover to the person using such equipment. (Ord. No. 31, 1999, §III, 11-16-99)

Changeable copy sign: A sign which, in part or whole, provides for periodic changes in the material composing the sign or the message. This definition includes both electronically and manually changeable signs. Signs on which the only change is the price for the product or products customarily sold on the premises and on which the location, size and color of the numbers comprising the price remains constant are not considered changeable copy signs.

City center: See Architectural, scenic, historic area or town center.

Commercial center: For purposes of this Chapter, a commercial center is any building or combination of buildings with more than one occupant or business on a single lot. (Ord. No. 13, §3, 4-1-97)

Commercial message: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, industry, product, service, or other similar activity.

Commercial sign: A sign displayed on property containing a commercial use.

Commercial use: Retail trade, entertainment, services, or similar uses conducted for the purpose of profit.

Community Event Sign: A temporary sign identifying a community event. Such sign may include the place, dates and times of a community event (Ord. No. 31, 1999, §III, 11-16-99)

## COLUMBUS ZONING ORDINANCE

Construction sign: A sign containing the name(s) of an architect, contractor, financial institution, vendor, or similar information, displayed on property during construction of a building or project.

Designation sign: A free-standing sign that identifies an office park, industrial park, shopping center, apartment complex, subdivision development, or other similar development.

Directional sign: A sign providing information for the convenience of the public such as the location of exits, entrances, and parking lots.

Directional sign, off-site: A sign that directs the public to uses not located on the same site as the sign.

Directory sign: A sign listing the occupants of a building or of a commercial center. (Ord. No. 13, §3, 4-1-97)

Expressway or freeway: Any street so designated by the Thoroughfare Plan of the City of Columbus.

External illumination: A light source that is outside the sign and directed upon it.

Façade: The side of a building below the roof for flat roofs, below the deck line for mansard roofs and below the eaves for gables and hip roofs.

Flag: A rectangular, square or similarly shaped piece of lightweight fabric of distinctive design that is used as a symbol of a nation, governmental entity, business, institution, organization or similar entity. (Ord. No. 31, 1999, §III, 11-16-99)

Flashing sign: Any sign which in whole or in part, physically changes in light intensity or gives the appearance of such change at intervals of less than 6 seconds.

Free-standing sign: A sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

Height, (free-standing sign): The distance measured in a vertical plane from grade at the edge of pavement of the adjacent street from which the property has immediate access to the highest point of the sign.

Historic area: See Architectural, scenic, historic area or city center.

Indirect illumination: A light source not seen directly.

Industrial sign: A sign displayed on property containing an industrial use.

Industrial Use: Processing or manufacturing of materials, or fabrication, assembly, treatment, packaging and/or distribution of products and similar uses.

Inflatable sign: An inflated object tethered or otherwise attached to the ground, structure, or other object, but excluding hot air balloons which are temporarily tethered in connection with their imminent flight. This definition includes but is not limited to inflated representations of blimps, products, cartoon characters, animals and the like.

Informational sign: A sign intended to provide secondary information as to the nature of a business or the location of a function within a building. Examples include but are not limited to signs stating the types of products available ("Bakery," "Pharmacy," "Patio Furniture," etc.) or signs over entrances ("Greenhouse," "Lumber," "Customer Service," etc.).

## COLUMBUS ZONING ORDINANCE

Internal illumination: A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.

Interstate highway interchange sign: A sign that contains only a logo located within a designated "interstate highway interchange area."

Institutional use: Nonprofit, religious, or public use, such as a church, library, public or private schools with academic curriculum, hospital, or government owned or operated building, structure or land use for public purpose.

Logo: A unique image or type style or a close combination of the 2 as commonly used by an activity.

Marquee: A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from the elements.

Monument Sign: A free-standing sign no more than 6 feet in height which is placed on a solid base directly on the ground or is supported by a posts or a pylon not more than 18 inches in height.

Movement: Physical movement or revolution up or down, around or sideways that completes a cycle of change at intervals of less than 6 seconds. See also Animation.

Nameplate: A sign containing the name of the occupant or building and/or the address of the site. (Ord. No. 13, §3, 4-1-97)

Noncommercial Changeable Copy Sign: A changeable copy sign that does not contain any commercial messages. (Ord. No. 31, 1999, §3, 11-16-99)

Nonconforming sign: A sign that is not in compliance with this Chapter on either of the following dates: (1) the date of the original enactment, or (2) any date on which this Chapter is amended.

Off-street parking area: An area used solely for parking that is 40 feet or more in depth.

Peak: The highest point on a roof or the highest point on another architectural element that blocks the rear view of a sign.

Pennant: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent sign: A sign that is attached to the ground or to a building in such a manner that it is not intended to be frequently removed or replaced and is not a portable or temporary sign as defined in this Chapter.

Portable sign: A sign that is not permanently attached, or designed to be permanently attached, to the ground or to a building, and is not mounted to nor designed to be mounted to a pole or other support temporarily driven into the ground. This includes any signs which are, or are designed to be, mounted on wheels or built to roll or slide or to be moved. (Ord. No. 31, 1999, §3, 11-16-99)

Primary sign: A permanent sign which is the principal means of identifying a building, business, occupant, development, or premises. (Ord. No. 13, §3, 4-1-97)

## COLUMBUS ZONING ORDINANCE

Projecting sign: A sign attached to and projecting from the wall or similar element of a building and not in the same plane as the wall.

Roof sign: A sign that is displayed above the eaves and under the peak, including but not limited to signs painted on roofs or attached thereto, but not including vertical roof signs. See also Above-roof sign and Vertical roof sign. (Ord. No. 31, 1999, §3, 11-16-99)

Scenic area: See Architectural, scenic, historic area or city center.

Secondary sign: A sign, which is clearly subordinate to a primary sign and which does not provide the principal means of identification of a building, business, occupant, development, or premises. (Ord. No. 13, §3, 4-1-97)

Sidewalk Sign: A movable sign which is intended to convey information to pedestrians, such as an "A-frame" sign containing menus or specials. A sidewalk sign is not considered to be a portable sign. (Ord. No. 31, 1999, §3, 11-16-99)

Sign: A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, inform, or communicate information of any kind and that is visible from a public or private street or right-of-way. A mural is not considered to be a sign.

Sign plaza: An area that the City Council designates as appropriate for the display of off-premises advertising.

Standard: Any upright object used as a support, including but not limited to lamp posts and posts supporting street name signs or traffic control devices.

Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface, such as a marquee or canopy, and is supported by such surface.

Temporary sign: A window, wall, beacon or other sign attached to a building or placed on the ground and displayed for a fixed limited period of time. (Ord. No. 31, 1999, §3, 11-16-99)

Tube illumination: A light source supplied by a tube, that is bent to form letters, symbols, or other shapes, such as a neon sign.

Urban plaza: A specifically designated street intersection, square, or similar area where a majority of the buildings or uses have a unique or singular architectural or graphic character or theme.

Vertical Roof Sign: A sign which is perpendicular to the ground and attached to the roof, which would be located on the roof at the bottom of the sign, but project from the roof at the top so that it remains perpendicular to the ground. In the case of certain mansard roofs, the sign may actually be attached to the roof on the top and bottom if such mansard roof is perpendicular to the ground. No such sign shall extend below the eaves or above the peak of the roof. (Ord. No. 31, 1999, §3, 11-16-99)

Wall sign: A sign painted on or attached to a wall of a building in the same plane as the wall.

Window sign: A sign applied, painted or affixed to, or in the window of a building and clearly visible from the street, alley, or parking area. A window sign may be temporary or permanent.

### **Section 17.46.030 Permitted Signs**

A. Signs not requiring permits. The following signs may be erected or installed without permits:

## COLUMBUS ZONING ORDINANCE

1. One sign per street frontage advertising the sale or lease of the property on which the sign is located, not to exceed 32 square feet in area on the following properties:
  - a. Parcels 3 acres or larger in size
  - b. Commercial, industrial, or institutional parcels, or multifamily dwellings containing more than 4 dwelling units.
2. One sign per street frontage advertising the sale or lease of the property on which the sign is located, not to exceed 6 square feet in area, on residential parcels less than 3 acres in size.
3. Construction signs meeting the following criteria:
  - a. In a commercial, institutional, industrial, or multifamily area or a subdivision containing more than 3 lots, One sign not to exceed 32 square feet in area displayed on a construction site during the construction period, not to exceed 18 months.
  - b. In one- or two-family residential areas, one sign not to exceed 6 square feet in area on a residential construction site displayed during construction, not to exceed 6 months. If such sign identifies more than 2 entities, the size may be increased to 16 square feet.
4. Governmental signs, including but not limited to traffic control signs, street signs, historical markers, city entrance announcements, and legal notices. Legal notices include "no trespassing," "no hunting," "no parking," and similar notices, and any signs required by other statutes or ordinances. These signs may be located within the public right-of-way and are regulated by the Board of Public Works and Safety. This exemption is not to be construed as exempting government buildings or uses from the requirements of this Chapter.
5. Flags of any country, state, unit of local government, institution of higher learning, or similar institutional flags. No commercial messages or logos are permitted on such flags. Flags containing commercial messages are considered to be signs and count toward the total number and area of signs allowed on the premises under the terms of this Chapter.
6. Flags or banners which meet the following criteria:
  - a. The flags or banners contain colors and/or graphic designs only, with no commercial message.
  - b. For flags or banners which are displayed on poles not attached to a building, there shall be no more than one flag for each 2,500 square feet of parking or open space area, and each flag may be no more than 32 square feet in area.
  - c. Flags which are attached to buildings or to poles attached to buildings may not exceed 32 square feet in area, and the flags or poles to which such flags are attached shall be spaced at least 10 feet apart. (Ord. No. 31, 1999, §III, 11-16-99)
7. Political signs no larger than 6 square feet in area.
8. Holiday decorations.
9. Barber poles.
10. Street numbers of 12 inches or less in height. Section 12.04.080 of the Columbus City Code requires owners of all buildings to display the street number in a conspicuous place on the outside of the building.
11. Nameplates no larger than 2 square feet in area for one- or two-family dwellings and no larger than 4 square feet in area for other uses.
12. Sidewalk signs, as permitted in Section 17.46.030 B 2 f.
13. Agricultural signs such as those indicating the types of seeds or other agricultural products used on the premises shall be no taller than 7 feet, no larger than 10 square feet, and shall be placed at a uniform height at least 10 feet apart, plus one sign per farm no larger than 16 square feet supplementary to the smaller signs permitted under this Section.
14. Merchandise displays, located within buildings but which are visible from a street or parking area, provided there are no signs within the display that are designed or intended to be read from a street.
15. Credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not exceed an aggregate area of 4 square feet. These are included in the percentage of temporary or permanent window signs permitted.
16. "Help Wanted" signs not to exceed 6 square feet in area, on nonresidential parcels.

## COLUMBUS ZONING ORDINANCE

17. Signs which are not visible or are not intended to be read from a public right-of-way or parking area at least 40 feet in depth.

18. Pole banners which (a) are decorative and do not contain any commercial message or (b) have been approved by the Banner Advisory Committee appointed by the Mayor. (Ord. No. 31, 1999, §III, 11-16-99)

19. Other signs which are determined by the staff to be similar in nature and intent to those listed in this Section.

B. Primary, Secondary, and Temporary Signs. Each use is permitted to have primary, secondary, and temporary signs as detailed in this Chapter.

1. Primary signs are the principal means of identification of the building, business, occupant, development or premises. They are permanent signs which are designed to attract attention from a street or other right-of-way or parking area. Table 17.46.1 shows the primary signs permitted for different uses. The table provides a concise guide, however there are additional restrictions and provisions which are not shown on the table but are found elsewhere in this Chapter. (Ord. No. 13, §3, 4-1-97)

2. Secondary signs are intended to convey additional information about the building, business, occupant, or premises. Signs allowed without permits as specified in Section 17.46.030 A are considered to be secondary signs. Table 17.46.2 shows other secondary signs permitted for different uses. The table provides a concise guide, however there are additional restrictions and provisions which are not shown on the table but are found elsewhere in this Chapter. In order to qualify as a secondary sign, the sign shall comply with the following: (Ord. No. 13, §3, 4-1-97)

a. Directional Signs shall be no larger than 6 square feet. They may contain logos, business names, arrows, or other necessary and appropriate directional information (such as "office," "shipping," "loading," etc.). Each premises shall be permitted a minimum of 2 directional signs. Additional signs are permitted in order to promote public safety and convenience. The staff, in consultation with the city engineer, shall make a determination as to the number permitted on a premises based upon such factors as the property size, configuration, improvements, and circulation.

b. Directory Signs shall be no larger than 32 square feet, shall contain letters no taller than 3 inches and shall not be designed nor intended to be read from a moving vehicle. Such signs may be window, wall, or free-standing. Window or wall signs shall be designed to be read by pedestrians; free-standing signs may be either pedestrian- or driver-oriented, but driver-oriented signs shall be so designed and located as not to interfere with traffic circulation nor endanger the public. The locations of such signs must be approved by the staff in consultation with the city engineer.

c. Flags containing commercial messages shall contain no more than 32 square feet. Table 17.46.2 indicates the maximum number of flag poles permitted when commercial flags are displayed on the premises. If there are no commercial flags, the provisions of Section 17.46.030 A 6 apply.

d. Informational Signs on a premises shall contain no more than 30% of the total area of the primary signs permitted on the wall of the building. No more than 3 informational signs are permitted per wall. No commercial messages (i.e., brand names, business names) are permitted on such signs.

e. Projecting or suspended signs shall be no larger than 6 square feet, shall be pedestrian oriented and not designed nor intended to attract attention of drivers of moving vehicles.

f. Sidewalk signs shall not be located in the public right-of-way, except in the City Center (see Section 17.46.050 A 1), and shall not interfere with vehicular or pedestrian circulation or safety. No more than one sidewalk sign is permitted per pedestrian entrance. Such signs shall be no taller than 5 feet and no larger than 15 square feet per side.

g. Time and temperature signs shall not contain commercial messages.

h. Window signs shall contain only incidental information such as hours of operation, credit card information, or similar.

3. Temporary signs are permitted only in accordance with this Chapter.

a. No animated sign, changeable copy sign, flashing sign, sign with movement or suspended sign shall be used as a temporary sign.

## COLUMBUS ZONING ORDINANCE

- b. Beacons are permitted as temporary signs for community events for a maximum of three days per event and a maximum of twelve days per year on a given site. Beacons are also permitted for grand openings on the site where the beacon is located for a maximum of twelve days.
- c. Only one temporary banner or free standing sign for a special event or grand opening is permitted per lot or parcel.
- d. Community event signs may be located away from the site of the community or special event.
- e. Going out business signs shall be limited as follows:
  - i. Only one temporary banner or free standing sign is permitted per lot or parcel. Banners shall not be mounted between poles, columns, or trees. (Ord. No. 31, 1999, §III, 11-16-99)
  - ii. Free-standing going out of business signs are not permitted in commercial centers except as provided in Section 17.46.030 B 2 f.
  - iii. Window signs may cover the entire window for a period of up to 90 days in compliance with Table 17.46.3.
- f. Inflatable signs shall meet the following standards:
  - i. Such signs shall be tethered to the ground, not to the roof of a building.
  - ii. The top of the inflatable sign shall not exceed the height of the building for which it is a sign.
  - iii. Such signs shall not be located on the site in a manner to interfere with vehicular or pedestrian traffic.
  - iv. Only one inflatable sign is permitted per use.
- g. Noncommercial changeable-copy signs shall meet the following standards:
  - i. Such sign shall not be illuminated;
  - ii. Such signs shall not remain more than 3 days a year at any site; and
  - iii. Such signs shall not be located in the right-of-way (see Section 17.46.040 B.) or in such a manner to interfere with vehicular or pedestrian traffic.
- h. Table 17.46.3 shows the types of temporary signs permitted for different uses and the time period during which they may be displayed. Temporary signs not permitted by this Section or by Table 17.46.3 or not in compliance with Section 17.46.050 and Table 17.46.6 are prohibited, unless the staff finds that a proposed sign is equivalent to a permitted sign and is consistent with the spirit and intent of this Chapter.

### **Section 17.46.040 Development Standards for Signs**

- A. Height and area requirements.
  - 1. Permanent free-standing signs shall comply with the height and area requirements shown on Table 17.46.4. The following height and area bonuses are available:
    - a. A use with 300 feet or more of frontage on any single street may display one additional free-standing sign for each additional 300 feet of frontage on each street. A minimum distance of 300 feet must separate the free-standing signs on each street. A use with a street frontage of 300 feet or more which displays only one free-standing sign may increase the area of the sign by .25% for each foot in excess of 300, up to a maximum of 75% increase. (Ord. No. 28, §3, 6-4-97)
    - b. A use which displays a monument sign as its only free-standing sign may increase the area by up to 20%.
    - c. A use located on a corner lot which displays only one free-standing sign may increase the area by up to 20%.
    - d. A sign which is set back from the right-of-way line in excess of the distance required in Section 17.46.040 B below may increase the height as shown on Table 17.46.4. (Ord. No. 31, 1999, §III, 11-16-99)
  - 2. Occupant or changeable copy signs which are on the same pylon as the primary sign shall not be separated from each other nor from the primary sign by more than 6 inches if the spaces between are open to the air. The total area of such occupant or changeable copy signs shall not exceed 75% of the area of the primary sign. If the total area of all signs on the same pylon is 50% or less of the maximum allowable area, the total area of the sign may be increased, not to exceed 100% of the area of the primary sign. (Ord. No. 13, §3, 4-1-97, Ord. No. 31, 1999, §III, 11-16-99)

## COLUMBUS ZONING ORDINANCE

3. Wall signs for occupants in commercial centers must be located on a wall associated with the occupants' business. (Ord. No. 28, §3, 6-4-97)

4. Permanent wall signs shall comply with the area requirements shown on Table 17.46.5. For purposes of this Chapter, canopy signs are considered to be wall signs.

5. If more than one canopy is located on a site, only one canopy per street frontage on such site shall be permitted to have any signs on the fascia, and only the fascia of a canopy shall be permitted to have signs.

6. Temporary signs shall comply with the height and area requirements shown on Table 17.46.6 and the provisions of Sections 17.46.030 B 2 f and 17.46.050. (Ord. No. 31, 1999, §III, 11-16-99)

7. Signs not requiring permits shall comply with the height and area requirements indicated in this Section, Section 17.46.030 and Table 17.46.6.

B. Setbacks. All signs and sign structures shall comply with the front setback requirements contained this Chapter. The leading edge of a sign may be at the right-of-way. No free-standing sign shall be placed closer than 10 feet to any side or rear lot line. Notwithstanding the above, in no case shall signs be so located as to interfere with visibility or with safe and efficient movement of vehicular or pedestrian traffic. Any signs which are permitted to be placed in the public right-of-way must be approved by the Board of Public Works and Safety. In permitting such signs, the Board shall determine that the sign will not interfere with vehicular or pedestrian safety. The Board may require suitable agreements to ensure that such signs will not result in expense to the public. (Ord. No. 31, 1999, §III, 11-16-99)

On lots where existing buildings encroach into or are located within 15 feet of the right-of-way as established by the thoroughfare plan, the Board of Public Works and safety may permit permanent free-standing signs to be located within said right-of-way, provided the following criteria are met:

1. There is no practical alternative location for a free-standing sign;
2. The sign will not interfere with sight distance or traffic safety;
3. The sign does not exceed the height that would be permitted at the right-of-way line established by the Thoroughfare Plan;
4. The sign does not exceed the area permitted by this Chapter;
5. The sign is located at least 10 feet from the edge of pavement;
6. The sign location will not interfere with any scheduled street improvement as indicated on the Capital Improvement Program;

7. The property owner records an agreement running with the land assuming all responsibility for liability associated with the sign and assuming all costs associated with removing the sign(including the value of the sign itself) in the event that it interferes with a street improvement project at any time in the future. (Ord. No. 7, 1995, §3, 2-7-95, Ord. No. 31, 1999, §III, 11-16-99)

C. Landscaping. All permanent free-standing signs other than monument signs shall have plantings which earn at least 200 points calculated pursuant to Section 17.43.020 and as shown on Table 17.43.1. Such landscaping shall count toward the total minimum landscaping points required for the parcel on which the sign is located. (Ord. No. 49, §III, 12-5-95, Ord. No. 31, 1999, §III, 11-16-99)

D. Illumination. Signs may be illuminated by shielded external lights, internal lights, indirect lights, or tube lights. Bare-bulb illumination is permitted only for the following uses in commercial or industrial zone districts:

1. Eating or drinking establishments
2. Hotels or motels
3. Theaters
4. Live entertainment establishments

E. Maintenance. All signs and sign structures shall be maintained in good repair and safe condition. Any of the following conditions shall be considered in violation of this provision:

1. Visible elements of the surface or background have portions of the finished material or paint flaked, broken, missing, changed in color by staining or rusting, or otherwise are not in harmony with the rest of the surface area.
2. The structural support or frame members are visibly corroded, rusted, discolored, bent, broken, dented, or torn.

## COLUMBUS ZONING ORDINANCE

3. The panel is visibly cracked or, in the case of wood and similar products, cracked or splintered.
4. The sign or elements of it are twisted or leaning at angles other than those at which it was originally erected, such as may result from being blown or struck or failure of a structural support.
5. The message cannot be read by a person with normal eyesight under normal viewing conditions or where the entire face has so faded that it has the appearance of being worn.

### **Section 17.46.050 Areas and Uses of Special Character**

The City Council, in the same manner as a zoning map amendment, may designate areas or uses of special character and may adopt sign regulations specifically for those areas or uses. Areas which may be so designated include but are not limited to the following: Architectural, historic, city center, or scenic area; sign plaza or urban plaza; areas or uses with unusual character or needs for signs; Interstate highway interchange areas. The staff shall indicate the boundaries of all designated areas of special character on the Official Zoning Map. Specific regulations for areas of special character supersede and may be either more or less restrictive than the regulations for signs contained in this Chapter.

A. Designated Areas. The following areas of special character are hereby designated with the regulations relating to these areas as indicated:

1. City Center. This area is bounded by First, Eighth, Brown, and Lafayette Streets. It is the commercial, financial, government, and institutional center of the community. For purposes of this Chapter, each ground floor occupant which is structurally separated from adjoining occupants and which has a separate entrance to the outside is considered to be a separate use. This area is uniquely oriented to both automobile and pedestrian traffic. In recognition of this special character, the following regulations shall apply: (Ord. No. 13, §3, 4-1-97)

a. Permitted Signs

i. Signs not requiring permits. All signs allowed under Section 17.46.030 A, except agricultural signs are permitted in the City Center.

ii. Primary signs. Primary signs are permitted as described below. These signs may be changeable copy signs.

(a) Wall signs. One primary wall sign per street, alley or parking area frontage, not to exceed 10% of the area of the wall on which it is displayed or 150 square feet, whichever is less. This sign may identify more than one occupant, provided that the size limitation is not exceeded. For buildings containing more than one story, a wall sign may not extend above the window sill of the story above, and wall signs may be displayed on no more than two of the stories on each façade. The total area permitted need not be in a single sign; up to 3 wall signs may be displayed, provided the aggregate area of all signs does not exceed the maximum. If the aggregate area of all signs does not exceed 50% of the maximum, the number of signs is unlimited. (Ord. No. 13, §3, 4-1-97)

(b) Projecting signs. A primary projecting sign may be substituted for a wall sign, provided such sign does not project more than 30 inches over the public right-of-way.

(c) Free-standing signs. One primary free-standing sign per street frontage where the principal building is set back at least 10 feet from the property line. Such sign shall be no larger than 50 square feet and no taller than 5 feet. Buildings with setbacks less than 10 feet are not permitted free-standing signs.

(d) Awning signs. Non-rigid awnings may extend over the public sidewalk; however, any poles, wires, or other awning supports affixed to the ground within the public right-of-way must be approved by the Board of Public Works and Safety.

(e) Window signs. Primary window signs displayed on the ground floor shall not exceed 15 percent of the area of the windows. There is no limit on the number of such signs nor the number of occupants identified, provided that the area limitation is not exceeded. Uses on floors above the first floor may display window signs in the windows of spaces occupied by such use. Only one window sign may be displayed on each side of the building for each use above the ground floor. Such sign may cover no more than 25% of the window. (Ord. No. 13, §3, 4-1-97)

iii. Secondary signs.

(a) Sidewalk signs. One secondary sign may be placed on the public sidewalk for each entrance, provided that such sign does not interfere with pedestrian movement nor create a public safety hazard.

## COLUMBUS ZONING ORDINANCE

(b) Suspended or projecting signs. A use may display, in addition to the other permitted signs one secondary suspended or projecting sign which contains copy no more than 6 inches in height and is no more than 6 square feet in area. Secondary projecting signs may extend no more than 18 inches over the public right-of-way.

(c) Informational signs as described in Section 17.46.030 B 2. Such signs may be placed on walls, windows, or awnings. If they are located on windows, they are counted toward the maximum area which may be covered.

(d) Flags containing commercial messages are permitted as secondary signs. Such flags shall be no larger than 32 square feet, shall be located at least 10 feet apart.

(e) Signs which are integral to a merchandise display.

(f) Directory signs. Pedestrian-oriented signs no larger than 4 square feet, mounted on a wall or door are permitted. Directory signs also are permitted as window signs, but they are included in the maximum allowable window coverage. Businesses with on-site parking lots may display driver-oriented directory signs no larger than 8 square feet, free-standing or wall-mounted. Such signs shall be so designed and located as not to interfere with traffic circulation nor endanger the public. The locations of such signs must be approved by the staff in consultation with the city engineer.

(g) City Center directory signs, which are free-standing pedestrian-oriented signs indicating points of interest, businesses, or other similar information are permitted in the public right-of-way provided the Board of Public Works and Safety approves such signs. The Board shall approve such signs only if it finds that the signs will not impede pedestrian movement, will not interfere with sight distance, and are appropriate in design and materials to the downtown.

(h) Time and temperature signs containing no commercial message.

(i) Incidental temporary signs, such as posters indicating community events are permitted as window signs and are exempt from the time limitations indicated on Table 17.46.3. Such signs are to be included in the calculation of maximum permitted window coverage.

iv. Temporary signs. Temporary signs are permitted in accordance with Section 17.46.030 and Tables 17.46.3 and 17.46.6. (Ord. No. 31, 1999, §III, 11-16-99)

b. Prohibited Signs .

i. All signs prohibited by Section 17.46.050.

ii. Backlit or electric awnings.

iii. Signs which interrupt architectural details.

2. Interstate Highway Interchange Areas. These areas are delineated on the zoning map and include commercial areas adjacent to the interchanges of I-65 with SR 46 and SR 58. These areas are characterized by uses which depend upon interstate highway travelers for a significant portion of their business. In recognition of the unique character of these areas, the following regulations apply, in addition to the other signs permitted by this Chapter:

a. One interstate highway interchange sign, located behind the primary structure, may be displayed on each lot or parcel.

b. Interstate highway interchange signs shall not exceed 90 feet in height.

c. Interstate highway interchange signs shall not exceed 200 square feet in area.

B. Designated Uses. The following uses of special character are hereby designated with the regulations relating to these areas as indicated:

1. Automobile Service Stations. Automobile service stations which offer service for motor vehicles by dispensing fuels, lubricants, batteries tires, and other automotive accessories, and/or convenience goods, have traditional patterns of signs that are easily recognized by the traveling public. In recognition of this special character, the City of Columbus shall permit the following signs for these uses.

a. Primary signs as shown on Table 17.46.1.

b. Secondary signs as shown on Table 17.46.2.

c. Temporary signs as shown on Table 17.46.3 and permitted under Section 17.30 B 3.

d. Any applicable signs not requiring permits, as specified in Section 17.46.030 A.

e. A convenience store or other business located on the same premises as the service station shall be considered to be a separate occupant as indicated on Table 17.46.1. (Ord. No. 13, §3, 4-1-97)

## COLUMBUS ZONING ORDINANCE

f. Signs such as "Self Serve," "Full Serve," and pump numbers are considered to be secondary signs if the letters or numbers are no more than 6 inches tall, extending to 10 inches tall over no more than 15% of area of the sign. The number and location of such signs is to be determined in accordance with Section 17.46.030 B 2 a.

g. One set (one price per fuel product) of gasoline prices that are no taller than 18 inches visible from each direction of traffic from each street frontage.

h. One sign per pump island with letters no more than 8 inches tall.

i. One secondary sign per street frontage, no larger than 15 square feet, contained within a frame and mounted on a permanent pole, designed so that the contents of the frame can be changed periodically.

j. If more than one canopy is located on a site, only one canopy per street frontage on such site shall be permitted to have any signs on the fascia, and only the fascia of a canopy shall be permitted to have signs. Such canopy may have only one sign per street frontage.

k. No column or pole supporting any canopy shall have any signs other than those set forth above. (Ord. No. 31, 1999, §III, 11-16-99)

2. Automobile Dealerships. Automobile dealerships distributing for more than one manufacturer are required to display signs for each make of vehicle. In recognition of this special character, the City of Columbus shall apply the following regulations to signs for these uses.

a. Primary signs as shown on Table 17.46.1.

b. Secondary signs as shown on Table 17.46.2.

c. Temporary signs as shown on Table 17.46.3 and permitted by Section 17.030 B 3. (Ord. No. 31, 1999, §III, 11-16-99)

d. Any applicable signs not requiring permits, as specified in Section 17.46.030 A.

e. In addition to the other permitted free-standing signs, an automobile dealer who distributes for more than one manufacturer may display one free-standing sign for used cars and one free-standing sign for each manufacturer, provided that the total number of such signs shall not exceed three additional signs and all shall be landscaped in accordance with the provisions of Section 17.43. No individual sign may be larger than 75 square feet. For dealerships constructed after the effective date of this Chapter, all such free-standing signs shall be at a uniform height. (Ord. No. 31, §III, 11-16-99)

f. An automobile dealer who distributes for more than one manufacturer may display a single sign with an area 40% larger than the aggregate area of the free-standing signs which would otherwise be permitted.

3. Drive-Through Restaurants. Drive-through restaurants are designed to serve drivers who need not exit their vehicles. These restaurants have traditional patterns of signs which are easily recognized by the traveling public. In recognition of this special character, the City of Columbus shall apply the following regulations to these uses:

a. Primary signs as shown on Table 17.46.1.

b. Secondary signs as shown on Table 17.46.2.

c. Temporary signs as shown on Table 17.46.3 and permitted by Section 17.46.030 B 3.

d. Any applicable signs not requiring permits, as specified in Section 17.46.030 A.

e. The aggregate of temporary and permanent window signs may cover up to 60 percent of the window area.

f. One secondary sign per street frontage, no larger than 15 square feet, contained within a frame and mounted on a permanent pole with a primary sign, designed so that the contents of the frame can be changed periodically. (Ord. No. 31, 1999, §III, 11-16-99)

4. Enclosed commercial centers, commonly known as enclosed shopping malls, are characterized by anchor businesses, one or more mall entrances, and businesses which are structurally separated from one another but are accessible through individual entrances from the interior of the mall building. These uses have traditional patterns of signs. In recognition of the special character of these uses, the City of Columbus shall apply the following regulations to signs within such centers:

a. Primary signs as shown on Table 17.46.1.

b. Secondary signs as shown on Table 17.46.2.

## COLUMBUS ZONING ORDINANCE

- c. Temporary signs as shown on Table 17.46.3 and permitted by Section 17.46.030 B 3. (Ord. No. 31, §III, 1999, 11-16-99)
- d. The maximum area and height requirements shown on Table 17.46.5 shall be applied to the wall, roof, or window area which is assigned to the use displaying such sign.
- e. Theaters located within enclosed malls or which are located in separate structures on the same lot or parcel as the enclosed mall shall be permitted to display the same signs as would be permitted if the theater were on a separate lot or parcel.
- f. Each use located in a freestanding building which is situated on the same parcel as an enclosed commercial center shall be permitted the same signs as those permitted for the same use on an individual lot, except that no permanent primary free-standing signs shall be permitted for such use.
- 5. Automatic Teller Machines and other similar freestanding structures.
  - a. One permanent primary wall sign per side, not to exceed 24 square feet.
  - b. One side may have a second permanent wall sign, further identifying the business (i.e., name of financial institution or owner) not to exceed 75% of the total area of the primary sign.
  - c. Any signs that are required by law are considered exempt signs under Section 17.46.030 A 4 of this Chapter, provided that such signs do not exceed 30% of the total area of the primary sign, unless the applicable statute mandates a larger size.
  - d. No separate free-standing sign is permitted for such use; such use is considered to be a separate occupant as indicated on Table 17.46.1. (Ord. No. 13, 1995; §3, 3-7-95, Ord. No. 13, §3, 4-1-97)
  - e. If the automatic teller machine is covered by a canopy, and another canopy is on the same street frontage on the same site and such canopy has a sign, then any canopy for the automatic teller machine shall not have any signs on its fascia or otherwise in compliance with Section B. 1. j.
- 6. Sign Plazas designated by the City Council. At the time of designation, the developmental standards for sign plazas shall be determined. (Ord. No. 31, 1999, §III, 11-16-99)

### **Section 17.46.060 Sign Development Plans**

- A. Designation of areas. In any zone district there may be areas with special or unusual development problems or needs for compatibility. The City Council may designate, in this Title, such areas, that then require submission of sign development plans to the Plan Commission, or an owner of property may request that the Commission approve a sign development plan for a particular use, property, or area.
- B. The Commission shall approve Sign Development Plans, even if they deviate from the requirements of this Chapter, if the plans comply with the following development standards:
  - 1. The number, sizes, materials, and designs of the signs are properly related to the type and location of the use, the land area of the site, and the sizes, styles and locations of the buildings and other structures on the site.
  - 2. The number, sizes, materials, and designs of the signs effectively communicate the uses to the motorist and/or pedestrian.
  - 3. The signs are consistent with the purposes of this Chapter, are appropriate to the development or the architectural character of the building in which the use is located, and are compatible with existing adjacent uses.
  - 4. The signs are consistent with the intent and purposes of this Chapter.
- C. A development plan for signs shall contain a visual representation of and/or criteria for design, area, height, placement, and location of the signs proposed for display.
- D. A use for which a Sign Development Plan has been approved by the Planning Commission may display only signs that comply with the approved plan.
- E. The staff may approve minor modifications to approved sign development plans in the manner provided in Section 17.50.010 of this Title. Minor modifications include only changes that do not:
  - 1. Increase the area of the signs by more than 5%
  - 2. Alter the relationship of the signs to neighboring property
  - 3. Change the locations of the signs in such a manner as to increase nonconformity with setback requirements, interfere with pedestrian or vehicular traffic, interrupt architectural details, or otherwise significantly deviate from the plan approved by the Commission.

## COLUMBUS ZONING ORDINANCE

### **Section 17.46.070 Signs Prohibited**

- A. The following signs are prohibited:
  - 1. Signs that flash, change copy more than once each 6 seconds (except time and temperature signs), or rotate by any means (except for barber poles), or signs that by color, location, or design resemble or conflict with traffic control signs or signals.
  - 2. Signs that interfere with visibility for drivers or pedestrians or in any other way endanger public health or safety.
  - 3. Signs attached to public light poles, street signs, traffic control signs, or other public standards, utility poles, or trees, or other signs located in the public right-of-way, unless such signs are specified by this Chapter.
  - 4. Portable signs.
  - 5. Billboards, except as permitted in sign plazas designated under the terms of Section 17.46.050.
  - 6. Above-roof signs and roof signs.
  - 7. Signs placed on vehicles parked on public or private property primarily for the purpose of displaying the signs. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service, vehicles which are customarily and regularly used for transporting persons or properties, vehicles parked at the driver's place of residence during non-business hours or for incidental purposes, or parked in a residential area for similar incidental purposes. Such "take-home" vehicles are subject to all other applicable regulations of this Chapter. It is the intent of this Chapter to prohibit the parking of vehicles on public or private property for the purpose of displaying signs which are not exempt from the regulations.
  - 8. Bench signs
  - 9. Pennants, streamers, balloons, except as specified in this Chapter.
  - 10. Any signs not otherwise permitted by this Chapter.

### **Section 17.46.080 Nonconforming Signs**

Signs which were lawfully erected and which do not comply with the terms of this Chapter are hereby declared nonconforming uses. The following regulations shall apply to such signs:

A. Any sign which was erected before the effective date of this Chapter which did not conform to zoning ordinance in effect at the time the sign was erected is not a lawful sign and is not entitled to remain under the terms of this Chapter.

B. Any sign which was lawfully erected before the effective date of this Chapter may be continued. If such sign is removed for any reason, including fire or act of God, such sign may be replaced only in conformance with this Chapter.

C. Nonconforming signs and sign structures for any use which is discontinued or abandoned shall be completely removed (including any structural supports, etc.) or brought into conformance within 6 months after such use is discontinued or abandoned. (Ord. No. 31, 1999, §III, 11-16-99)

D. Conforming sign structures shall be permitted to remain on the premises, provided that the sign face or lettering identifying the discontinued or abandoned use shall be removed within 3 months after such use is discontinued or abandoned. If the structural supports or frame of such signs are not utilized within one year after such use is discontinued, the structural elements shall be removed. (Ord. No. 31, 1999, §III, 11-16-99)

E. Notwithstanding the above, any temporary signs which identify a use which is discontinued or abandoned shall be removed within 10 days after such use is discontinued or abandoned. Any signs such as window signs which are not permanent structures and which identify a use which is discontinued or abandoned shall be removed within 30 days after such use is discontinued or abandoned.

### **Section 17.46.090 Administration and Enforcement**

This Chapter is a part of the Zoning Ordinance of the City of Columbus, Indiana, and it is subject to any provisions of this Title which are not inconsistent with this Chapter. Any decision which is made by the staff under the terms of this Chapter may be appealed to the Board of Zoning Appeals in the manner set forth for administrative appeals.

## COLUMBUS ZONING ORDINANCE

A. Staff duties. The staff shall determine which uses are assigned to the commercial, industrial, and institutional uses whose signs are regulated as such by this Chapter. When a building is occupied by a single occupant who carries on more than one use, or contains 2 or more uses carried on by different occupants, the staff may designate the use category or categories applicable to all of the uses in the building. (Ord. No. 13, §3, 4-1-97)

B. Sign area shall be calculated in accordance with this Section.

1. For freestanding signs, the area shall be the be computed as follows:

a. The area shall be the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the display or of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this Chapter and is clearly incidental to the display itself.

b. Each sign portion which is enclosed by a separate frame or is otherwise physically separated from other portions shall be considered to be a separate sign. Sign elements which are connected and/or touching are considered to be separate signs; however, spaces between lines of type, letters, etc. are not to be construed as physical separations. Signs which, because of their size, require a seam for structural stability shall be considered to be a single sign if the sign appears as a single unit and the following criteria are met:

i. There is no change of material or color at the seam of the sign.

ii. The seam is not used to separate message elements on the sign, except for the occupant identifications or changeable copy signs permitted for commercial centers (See Table 17.46.1). (Ord. No. 13, §3, 4-1-97)

iii. The seam is not used to separate type characteristics, such as permanent and changeable copy.

2. Wall, Vertical Roof, and Awning Signs.

a. Wall or roof area shall be calculated by multiplying the width of the wall or roof by the height of the wall or roof. Wall area includes windows, doorways, and other similar features.

b. If a sign consists of individual letters, the area shall be the sum of the smallest square, rectangle, triangle, or circle which can encompass each letter.

c. If a wall, roof, or awning sign is enclosed by a box or outline, the area shall be the total area of the sign within the box or outline.

C. Certificates of Zoning Compliance

1. No person shall erect or display a sign unless the staff has issued a zoning compliance certificate for the sign or unless this Section exempts sign from this requirement.

2. A person proposing to erect or display a sign shall file an application for a zoning compliance certificate with the staff. Applications shall be filed in accordance with the Plan Commission Rules of Procedure. The application shall contain information and materials sufficient to determine compliance with the terms of this Chapter.

3. The staff shall issue a zoning compliance certificate for the sign if one of the following criteria is met:

a. It complies with the regulations for signs contained in this Chapter, or

b. It complies with the special regulations adopted for a designated Area or Use of Special Character, or

c. It complies with a Sign Development Plan approved under this Chapter, or

d. It complies with a detailed site plan for a Planned Unit Development approved under the terms of this Title, or

e. It has been authorized as a variance or conditional use.

4. Signs are exempt from the requirement for a zoning compliance certificate if they are listed as exempt signs in Section 17.46.030 A.

5. Any sign which requires a building permit under the terms of the Bartholomew County Building Code cannot be installed or erected until such permit has been issued by the Department of Technical Code Enforcement.

D. Board of Zoning Appeals

The Board of Zoning Appeals shall have the following authority and responsibilities with respect to this Chapter:

## COLUMBUS ZONING ORDINANCE

1. The Board of Zoning Appeals may grant variances from the development standards of this Chapter in accordance with Section 17.61.080 of this Title only if the "practical difficulties" are special physical conditions that are due to the exceptional narrowness, shallowness, shape, topography or other unique characteristic of the property that impair the visibility of the sign from the street or highway or make compliance with the development standards of this Chapter infeasible. The existence of nonconforming signs in the general area shall not be justification for a variance, because an intent of this Chapter is to bring properties into compliance with the provisions of this Chapter. In order to qualify for a variance, the petitioner shall provide the board with evidence to indicate the minimum relief necessary. This evidence shall address the peculiarities of the property and shall not be related to the type of business nor to the owner.

2. Whenever the board grants a conditional use or use variance application, the board shall determine any limitations on signs necessary to preserve the spirit and intent of this Chapter.

3. The Board of Zoning Appeals may approve the following types of signs as conditional uses, provided the sign complies with the conditions stated in this Section:

a. Off-Site Directional Sign. Such sign may be permitted only if the Board finds that such sign will promote traffic safety by providing information to motorists and/or pedestrians. Such sign shall contain the name or logo of the use, a direction or arrow, and it may contain the distance.

b. Off-site wall sign. Such sign may be permitted only if the Board finds that such sign is clearly associated with an adjacent land use, such as a parking area or business contiguous to the wall on which the sign is displayed. This provision shall not be construed to permit signs which advertise goods or services not available at or adjacent to the location of the sign.

c. A sign which is not defined and/or addressed by the provisions of this Chapter but which clearly is consistent with the spirit and intent of this Chapter.

### E. Violations and Penalties

Any sign erected, raised or converted, or used in violation of any Section of this Chapter is hereby declared to be a common nuisance and the owner or possessor of the structure, land or premises shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.

1. The staff is authorized to issue an order requiring the suspension of site improvement or use of any kind when any of the following circumstances exist:

a. Site improvement is occurring without an Improvement Location Permit or Zoning Compliance Certificate or any other permit required by this Chapter having first been obtained.

b. Site improvement is occurring or a premises is being used or occupied in violation of the terms, conditions or commitments of any conditional use or variance granted by the Columbus Board of Zoning Appeals; in violation of any conditions, provisions, site or development plans relating to a planned unit development or special use; in violation of any conditions, provisions, site or development plans which may be required by any provision of this Chapter or in violation of any other term or condition of this Chapter.

Such order shall be posted on the property in a conspicuous place, or personally delivered to the owner, possessor, or person in charge and state the conditions under which construction or other activity may be resumed. Upon request, the staff shall meet with the recipient of such order to explain the conditions under which the site improvement or activity may be resumed. The staff may, on behalf of the Plan Commission or Board of Zoning Appeals, institute a suit in a court of competent jurisdiction to enforce the provisions of the order to suspend site improvement or use.

2. The following shall be deemed civil zoning violations which may be enforced by designated staff in accordance with the procedures set forth in this Section of this Chapter:

a. The location, erection, or maintenance of any sign not specifically permitted by the provisions of this Chapter.

b. The failure to obtain an Improvement Location Permit or Zoning Compliance Certificate for a sign when one is required by the terms and provisions of this Chapter.

Any person who uses property in violation of this Section shall be deemed to have committed a civil zoning violation and may be issued a citation by the designated enforcement entity. Each day a violation remains

## COLUMBUS ZONING ORDINANCE

uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed below.

The monetary fine for each civil zoning violation shall be \$50.00, except that for a repeated civil zoning violation, the following fines shall apply:

Second Citation	\$100.00
Third Citation	\$150.00
Fourth Citation	\$200.00
Each Citation in excess of four	\$300.00

In no event shall the total monetary fine for each civil zoning violation exceed \$2,500.00. All fines prescribed by this Section for civil zoning violations shall be paid in accordance with the provisions of Indiana law and the Code of Laws of the City of Columbus.

### 3. Citation for Civil Zoning Violations.

a. The staff may issue a civil zoning violation to a person who commits a civil zoning violation to the legal owner, the contract vendee, or any person or entity with a possessory interest in the real estate upon which the violation occurs. The citation may be served by personal service, by certified mail, or by placement in a conspicuous place on the property where the violation occurs and shall serve as notice to a person that he or she has committed a civil zoning violation.

b. No citation shall be issued for the first offense unless the person who commits a civil zoning violation, or the legal owner, the contract vendee, or any person or entity with a possessory interest in the real estate upon which the violation occurs has been issued a warning ticket. Unless a compliance deadline has already been established by the Board of Zoning Appeals or Plan Commission, a Zoning Compliance Certificate, or Certificate of Occupancy, said person shall be allowed not less than 3 days before the issuance of the citation to correct a violation involving a portable or temporary sign, and not less than 30 days before the issuance of the citation to correct a violation involving a permanent sign.

c. A person who receives a warning ticket or a citation may file a petition for a variance, conditional use, rezoning or other means provided by this Chapter to correct the violation. A person who elects to file such a petition shall indicate this intent on the warning ticket or citation and return it to the issuing agency. A person shall have 10 days after issuance of the warning ticket to file the petition, and for violations involving permanent signs, additional monetary fines under Section 17.46.090 E 2 b shall be stayed upon receipt of the warning ticket by the issuing agency or filing of the petition, whichever takes place first. A person who files the petition within said time period shall pursue the petition in an expeditious fashion. If the petition is denied, withdrawn, or dismissed for want of prosecution, the applicant shall correct the violation within 3 days after such denial, withdrawal, or dismissal if the violation involves a portable or temporary sign and within 30 days after such denial, withdrawal, or dismissal. No fines shall be assessed during this 30-day period. After that time, if the civil zoning violation continues at the real estate, then a lawsuit will be commenced by the designated enforcement entity in a court of competent jurisdiction in Bartholomew County, Indiana. A person who receives a citation under this Section and elects to file a petition shall not be entitled to a stay of additional monetary fines.

d. A person who receives a citation may elect to stand trial for the offense by indicating on the citation his intent to stand trial and returning a copy of the citation to the issuing agency. The returned copy of the citation shall serve as notice of the person's intent to stand trial, and additional monetary fines prescribed in Section 17.46.090 E 2 b shall be stayed upon receipt of the notice. The notice shall be given at least 5 days before the date of payment set forth on the citation. On receipt of the notice of intention to stand trial, a lawsuit will be commenced by the city attorney in a court of competent jurisdiction in Bartholomew County. The matter shall be scheduled for trial, and a Summons and an Order to Appear shall be served upon the Defendant.

e. If a person who receives a citation fails to pay the assessed fine by the date of payment set forth in the citation and fails to give notice of his intention to stand trial as prescribed in Subsection d above, the city attorney

## COLUMBUS ZONING ORDINANCE

may file a civil lawsuit as provided by applicable laws and seek penalties as prescribed in Section 17.02.230 of this Title.

f. A person adjudged to have committed a civil zoning violation is liable for the Court costs and fees. No cost shall be assessed against the enforcement agency in any such action.

g. Seeking a civil penalty as authorized by this Section does not preclude the city from seeking alternative relief from the court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this Chapter.

h. A change of venue from Bartholomew County shall not be granted in such a case, as provided in IC 36-7-4-1014. (Ord. No. 94-41, §3, 10-5-94)

**TABLE 17.46.1  
PERMANENT PRIMARY SIGNS PERMITTED**

Use	Sign Type								Comments
	Awning	Designation	Free Standing	Marquee	Project. or Sus-pended	Wall	Vertical Roof	Window	
Residential Subdivision		③							2 ③/entrance or 1 ③ in median
Apartment Building	⑤ <sup>1</sup>		③		⑤	⑤		⑤	1 ③ & 1 ⑤/frontage
Apartment Complex	⑤ <sup>1</sup>	③				⑤		⑤	2 ③/entrance or 1 in median, plus 1 ⑤/frontage
Institutional Use		③	③			⑤	③	⑤	1 ③/frontage (2, if designation) & 1 ⑤/frontage
Agricultural Use			③			⑤			1 ③/frontage & 1 ⑤/frontage
Industrial Use			③			⑤		⑤	1 ③/frontage & 1 ⑤/frontage
Industrial Park		③							2 ③/entrance or 1 ③ in median
Lodge, Social or Union Hall or Similar	⑤ <sup>1</sup>		③		⑤	⑤		⑤	1 ③/frontage & 1 ⑤/frontage. ③ may be ⑩

<sup>1</sup> Does not include backlit or electric awning

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.1 (CONTINUED)**  
**PERMANENT PRIMARY SIGNS PERMITTED**

Use	Sign Type								Comments
	Awning	Designation	Free Standing	Marquee	Projecting or Suspended	Vertical Roof	Wall	Window	
Theater	☑		☑	☑			☑		1 ☑/frontage & 1 ☑/frontage
Hotel or Motel	☑		☑				☑	☑	1 ☑/frontage & 1 ☑/frontage
Automobile Service Stations	☑		☑				☑	☑	1 ☑/frontage w/3 occupants max; 1 ☑/frontage; See Section 17.46.050 B 2
Commercial Center	☑	☑				☑	☑	☑	1 ☑/business/frontage & 1 ☑/entrance w/3 occupants max
Enclosed Shopping Mall <sup>2</sup>	☑	☑					☑	☑	1 ☑/entrance w/3 occupants max, & 1 ☑/anchor store/frontage, 1 ☑/mall entrance, & up to 4 businesses may have 1 ☑/entrance to the outside. See Section 17.46.050 B 4
City Center									See Section 17.46.050 A 1
Automobile Dealer (New Cars)	☑		☑				☑	☑	1 ☑/frontage & 1 ☑/frontage; See 17.46.050 B 2
Other Commercial Uses	☑		☑				☑	☑	1 ☑/frontage & 1 ☑/frontage

<sup>2</sup>Only exterior signs are regulated by this Chapter (Ord. No. 13, §3, 4-1-97)

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.2  
PERMANENT SECONDARY SIGNS PERMITTED**

Use										<i>Comments</i>
	Architectural	Changeable Copy	Directional	Directory	Flag (Perm. Pole)	Informational	Projecting or Suspended	Time & Temp.	Window	
1- or 2-Family Residential					☞					1 ❶/dwelling; may be free-standing or wall; ☞ noncommercial, 1 pole/lot max
Apartment Building	❶				☞	❶			❷	❶ May be wall, proj., or suspen.; 1 ❶/building; 1 commercial ☞/lot, 3 poles/frontage max
Apartment Complex	❶		❶	❷	☞					❶ May be free-standing, wall, proj., or suspen.; 1 ❶/ complex; ❷ may be wall or free-standing; 1 commercial ☞/entrance, 3 poles/entrance max
Institutional Use	❶	❷	❶	❷	☞	❶	❷	❷	❷	❶ May be free-standing, wall, proj., or suspen.; 1 ❶/ building; ❷ may be wall or free-standing; 1 commercial ☞/frontage, 3 poles/frontage max
Agricultural Use					☞					❶ May be free-standing, wall, proj., or suspen.; 1 commercial ☞/lot, 3 poles/frontage max
Industrial Use	❶		❶		☞	❶		❷	❷	❶ May be free-standing, wall, projec., or suspen.; 1 ❶/building; 1 commercial ☞/frontage, 3 poles/frontage max
Industrial Park			❶	❷	☞					❶ May be free-standing, wall, projec., or suspen.; ❷ may be wall or free-standing; 1 commercial ☞/entrance, 3 poles/entrance max
Lodge, Social or Union Hall or Similar	❶	❷			☞	❶		❷	❷	❶ May be free-standing, wall, projec., or suspen.; 1 ❶/building; ☞ noncommercial, 1 pole/frontage max

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.2 (CONTINUED)**  
**PERMANENT SECONDARY SIGNS PERMITTED**

Use										<i>Comments</i>
	Archi- tectural	Change- able Copy	Direc- tional	Directory	Flag (Perm. Pole)	Informa- tional	Projecting or Sus- pended	Time & Temp.	Window	
Theater	③	⑩			∞	⑤		⑩	⑩	⑤ May wall, projec., or suspen.; 1 ③/building; 1 ∞/frontage, 3 poles/frontage max
Hotel, Motel	③	⑩	⑤	⑤	∞	⑩	⑩	⑩	②	⑤ may be wall or free-standing; 1 commercial ∞/frontage, 3 poles/frontage max; 1 ③/building; ② not for individual sleeping rooms
Automobile Service Stations	③	⑩	⑤		∞	⑩			②	⑤ may be wall or free-standing; ⑩ wall only; 1 commercial ∞/frontage, 3 poles/frontage max; 1 ③/building. See 17.46.050 B 1
Commercial Center	③	②	⑩	⑩	∞	⑤	②	⑩	②	⑤ wall only; ⑩ wall or free standing; 1 ③/building; 1 commercial ∞/frontage, 3 poles/frontage max
Enclosed Shopping Mall <sup>1</sup>	③	⑩	⑤		∞	⑩	⑩	⑩	⑩	⑩ only for mall itself or for w/exterior signs; ⑤ wall or free standing; 1 commercial ∞/entrance, 3 poles/entrance max 1 ③/mall entrance. See 17.46.050 B 4
City Center										See 17.46.050 A 1
Automobile Dealer (New Cars)	③	②	⑤		∞	⑩		⑩	②	⑤ may be wall or free-standing; ⑩ wall only; 1 commercial ∞/frontage, 3 poles/frontage max; 1 ③/building. See 17.46.050 B 2
Other Commercial Uses	③	②	⑤		∞	⑩		⑩	②	⑤ may be wall or free-standing; ⑩ wall only; 1 commercial ∞/frontage, 3 poles/frontage max; 1 ③/building

<sup>1</sup>Only exterior signs are regulated by this Chapter. (Ord. No. 13, §3, 4-1-97)

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.3  
TEMPORARY SIGNS PERMITTED**

Use	Banners, Free-standing, or Window Spec. Event Signs <sup>1</sup>		Community Event		Going Out of Business		Grand Opening		Inflatable		Off-Site Directional		Pennants, Streamers, Balloons		Seasonal	
	Days/Event	Days/Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.	Days/Event	Days/ Yr.
<b>1- or 2-Family Residence</b>	2	10	5	10							3	30	2	10		
<b>Apartment</b>							60	60					2	10		
<b>Community Event Facility</b>			30				60	60	10	10						
<b>Commercial Center</b>		90	30	90	90	90	60	60	10	10			10	10	30	90
<b>Other Non-residential</b>		60	30	90	90	90	60	60	10	10			10	10	30	90

<sup>1</sup>This column refers to signs not covered by the other columns. Examples include but are not limited to special sales or promotions. Only one banner or free-standing temporary sign is permitted per use.

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.4  
HEIGHT AND AREAPERMANENT FREESTANDING SIGNS <sup>1</sup>**

	Expressway <sup>2</sup>	Primary Arterial	Secondary Arterial	One-way Arterial	Collector	Local	Internal Comm. Access
Maximum Height at Property Line <sup>3</sup>	35'	15'	15'	15'	10'	6'	5'
Height bonus for additional setbacks	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 2.5' of setback	1'/each 2.5' of setback
Maximum height	40'	22'	20'	20'	15'	15'	15'
Maximum area	250 sq. ft.	150 sq. ft.	100 sq. ft.	100 sq. ft.	100 sq. ft.	75 sq. ft.	75 sq. ft.
Designation sign bonus (Non-residential only)		50% increase, ht. & area	50% increase, ht. & area	50% increase, ht. & area	50% increase, ht. & area	100% increase, ht. & area	100% increase, ht. & area

<sup>1</sup>These heights do not apply to the City Center. See 17.46.050 A 1.

<sup>2</sup>Signs oriented to the interstate shall comply with the Highway Beautification Act. See also, Section 17.46.050 A 2, Interstate Highway Area.

<sup>3</sup>For signs designed to be read from two or more intersecting streets of different classification, the taller height shall apply.

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.5**  
**PERMANENT SIGNS (Not Free-Standing)<sup>1</sup> AREA REQUIREMENTS <sup>2</sup>**

Sign Type	Expressway	Primary Arterial	Secondary Arterial	One-way Arterial	Collector	Local	Internal Comm. Access
<b>WALL</b>	20	15	15	15	10	10	10
Maximum % of wall or roof area							
<b>WINDOW</b>	25	25	25	25	25	15	15
Maximum % of window area							
<b>VERTICAL ROOF</b>	20	15	15	15	10	10	10
Maximum % of roof area							
<b>AWNING</b>	60	60	60	60	50	40	40
Maximum % of awning surface							
<b>PROJECTING</b>		75	60	60	40	20	20
Maximum Area (sq. ft.)							
Maximum area (aggregate of all signs on this table)	350 sq. ft.	350 sq. ft.	350 sq. ft.	350 sq. ft.	350 sq. ft.	350 sq. ft.	350 sq. ft.

<sup>1</sup>The total square footage and percentage need not be in a single sign; there may be up to 3 signs displayed per wall, roof, or window, provided that the aggregate area of all signs does not exceed the maximum percentage or area permitted.

<sup>2</sup>The area requirements on this table do not apply to the City Center. See 17.46.050 A 1.

## COLUMBUS ZONING ORDINANCE

**TABLE 17.46.6  
HEIGHT AND AREATEMPORARY SIGNS**

Sign Type	Expressway	Primary Arterial	Secondary Arterial	One-way Arterial	Collector	Local	Internal Comm. Access
Banner Max. Area <sup>1</sup> (sq. ft.)	64	32	32	32	32	32	32
<b>FREE-STANDING</b>	64	32	32	32	32	32	32
Max. Area (sq. ft.)							
Max. Height at right-of-way line (ft.) <sup>2</sup>	35	15	15	15	10	6	5
Height bonus for additional setbacks	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 4' of setback	1'/each 2.5' of setback	1'/each 2.5' of setback
Maximum height	40'	22'	20'	20'	15'	15'	15'
<b>WINDOW</b>	25 <sup>3</sup> or 100 <sup>4</sup>	25 <sup>3</sup> or 100 <sup>4</sup>	25 <sup>3</sup> or 100 <sup>4</sup>	25 <sup>3</sup> or 100 <sup>4</sup>	25 <sup>3</sup> or 100 <sup>4</sup>	15 <sup>3</sup> or 100 <sup>4</sup>	15 <sup>3</sup> or 100 <sup>4</sup>
Max. % of window area							

<sup>1</sup>For grand openings or going out of business, banner sizes may be increased to 150 sq. ft.

<sup>2</sup>For signs designed to be read from two or more intersecting streets of different classification, the taller height shall apply.

<sup>3</sup>If used in lieu of permanent window sign for an unlimited number of days/year. The percentage of a window occupied by a temporary sign shall be added to the percentage occupied by permanent signs, in calculating the percentage of total coverage.

<sup>4</sup>Limited to the number of days/year shown in Table 17.46.3. (Ord. No. 52, §III, 12-19-95)

## **CHAPTER 17.47**

### **WIRELESS TELECOMMUNICATION FACILITIES**

#### **Section 17.47.010 Purpose; General Provisions**

This Chapter is intended to regulate the construction, placement and modification of telecommunication facilities; to preserve the aesthetic character of the City of Columbus and surrounding jurisdiction and to minimize the land use impact of such facilities while providing the community with the benefit of new technological advances in telecommunications; to promote long-range planning between the city and the providers of telecommunications and among the providers of communications; and to protect the public health, safety and general welfare of the community and to further the goals and policies of the Comprehensive Plan, by:

- A. Permitting the location of towers in non-residential areas;
- B. Avoiding damage to the adjacent properties from tower failure by requiring structural standards and setback distances;
- C. Minimizing the adverse visual effects of towers through careful design and siting standards;
- D. Maintaining and enhancing the aesthetic environment of the city and the two-mile jurisdiction;
- E. Reducing the proliferation of towers through tower-share requirements for all new construction and those existing towers that are physically capable of sharing;
- F. Encouraging the use of already existing structures, whether publicly or privately owned, such as water towers, silos, steeples and other tall structures as prime sites for new antenna sites;
- G. Discouraging the siting of telecommunication facilities in residential and agricultural areas;
- H. Providing for the siting of telecommunication facilities which may deviate from the regulations of this Chapter upon approval of the Plan Commission or Board of Zoning Appeals, as appropriate;
- I. Providing for the administration and enforcement of this Chapter.

#### **Section 17.47.020 Definitions**

Act: The Communications Act of 1934, as amended from time to time, including the Telecommunications Act of 1996, as amended from time to time.

Alternative Tower Structure: Man-made structures such as clock towers, steeples, light poles, roof tops, antennas integrated into existing architecture or similar alternative designed mounting structures or methods that camouflage or conceal the presence of antennas or towers.

Antenna: Any exterior apparatus designed to send and/or receive electromagnetic waves for the purpose of telephonic, radio or television communications.

Cellular Telecommunications: A commercial wireless radio service licensed by the Federal Communications Commissions which provides telecommunications service permitting customers to use wireless telephone technology such as, but not limited to, portable phones, pagers, faxes and computers.

Co-location: Locating telecommunication facilities from more than one provider on a single site or structure.

FCC: Federal Communications Commission, or any successor thereto.

Lattice Tower: A self supported three or four sided, open, steel frame structure, which is intended for receiving or transmitting any form of electronic communication.

Monopole Tower: A communication tower consisting of a single pole, constructed without guy wires and ground anchors, which is intended for receiving or transmitting any form of electronic communication.

Stealth Facility: Any telecommunications facility which is designed to blend into the surrounding environment; including, but not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure or integrated into existing architectural elements, towers designed to look like trees or designed to look like light poles, silos or other man made structure.

Telecommunications Facility: A cellular telecommunications facility consisting of the any of the equipment and structures involved in transmitting signals for cellular telecommunications.

Tower Height: The vertical distance measured from grade level to the highest point of the structure.

## COLUMBUS ZONING ORDINANCE

### **Section 17.47.030. Permitted Telecommunication Facilities.**

A. Telecommunication facilities meeting the following requirements shall constitute permitted uses in I-2 and I-3 zoning districts:

1. The telecommunications facility is designed, constructed and placed to minimize the visual impact by (a) use of an alternative tower structure; (b) co-location; (c) use of a stealth facility; (d) if new construction, structurally designed and capable of allowing other carriers to co-locate on the tower structure; (e) the use of color or camouflaging architectural treatment, or (f) the telecommunications facility is located on public land or in the public right of way as set forth in Section 17.47.080.

2. Notwithstanding anything else in this Title 17, the tower height for a stand-alone tower shall not exceed 60 feet if it is designed to accommodate only one service provider; 100 feet if it is designed to accommodate only two service providers; and 300 feet if it is designed to accommodate more than two providers.

3. Telecommunication facilities attached to other structures shall not exceed the greater of (a) the height requirement in the zoning district which they are located by more than ten feet or (b) the height of the structure on which such facilities are attached by more than 20 feet, without a variance.

a. The Board of Zoning Appeals may grant such a variance only if the applicant provides a report from a registered professional engineer with a specialization in cellular telecommunications as to the minimum tower height needed by the applicant, evidence that there are no other suitable structures for co-location that meet the applicant's requirements, and, if requested by staff, a visual impact analysis required by Section 17.47.050 E 2, 3 and 5.

4. If the property is being leased, the provider shall enter into a written easement agreement with the owner of the property, which shall include a platted area for the location of the telecommunications facility, which shall be duly recorded. If the property is owned or leased by the provider, unless the telecommunications facility is attached to an already existing structure, the platted area for the tower shall be the only use permitted on the platted easement or property.

5. All new tower construction shall be monopole towers or stealth facilities, unless the applicant provides a written report from a registered professional engineer, with a specialization in geotechnical engineering, that the cost of such a tower at such site be twice the normal cost of constructing a monopole tower due to specific conditions present at the site. Any proposed alternative shall be a lattice tower and shall meet the standards in Section 17.47.050 C. The city engineer shall review the application and either (a) determine if the report is complete and correct, or (b) at the discretion of the city engineer, hire an independent consultant at the expense of the applicant, to determine if such report is complete and correct. No tower shall be constructed unless the city engineer or such consultant issues a letter that the tower meets the safety requirements of this ordinance.

B. Alternative tower structures shall be permitted in all districts if the structures are designed and placed to minimize the visual impact of the structure, or if placed on existing structures do not exceed the height of the existing structure by more than twenty (20) feet. In all cases, such structures shall meet all other zoning requirements.

C. Telecommunication facilities shall be permitted in all districts if located on public land or in the public right of way as set forth in Section 17.47.070 below.

D. All applications for a Zoning Compliance Certificate for a telecommunication facility shall provide the staff with the following items, along with the other requirements of the zoning compliance certificate application:

1. Written approval from, or a certified copy of any necessary application to, all relevant federal and state agencies including, but not limited to, the Federal Aviation Administration (including a copy of the FAA's response to the "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) or any successor thereto), the Federal Communications Commission, the U.S. Environment Protection Agency, and the Indiana Department of Environmental Management.

2. A list of the applicant's existing facilities within jurisdiction of the City of Columbus, including the two mile jurisdiction, and a master plan setting forth any potential future telecommunication facilities in the city's jurisdiction.

## COLUMBUS ZONING ORDINANCE

a. This list shall include specific information as to the location (by address and State of Indiana Planning Coordinates), height, design, including the technical feasibility of allowing other providers to co-locate on the facility and the terms and conditions for co-location on the facility.

3. In the case of a new tower facility, the information required in Section 17.47.050 A 3, C, D, and E.

4. Any telecommunications facility required by the state, city or county for emergency purposes shall be exempt from the requirements of this Chapter.

### **Section 17.47.040 Telecommunication Facilities as an Accessory Use**

A. Antennas and other telecommunication facilities may constitute an accessory use in RB, B-1, B-2, B-3, B-4, B-5 and I-1 zoning districts if the telecommunications facilities use an alternative tower structure as defined in Section 17.47.020, or if such telecommunications facilities are co-located with an already existing telecommunications facility. If located on the roof of an associated principal building, the building must be at least three stories high, and the telecommunications facilities may exceed the height restrictions of the applicable district by a maximum of twenty (20) feet.

B. Antennas and other telecommunication facilities may constitute an accessory use in SU-1 (Churches), SU-9 (Hospitals and Sanitariums), and SU-13 (Utility Installations, etc.) zoning districts if the telecommunication facilities constitute an alternative tower structure.

C. Antennas and other telecommunication facilities may constitute an accessory use in a PD (Planned Unit Development) district if the uses approved for such Planned Unit Development consist entirely of commercial and/or industrial uses.

### **Section 17.47.050 Telecommunication Facilities as a Conditional Use**

All telecommunication facilities not meeting the criteria set forth in Sections 17.47.030 or 17.47.040 shall require a conditional use permit. Each application for a conditional use shall include the following:

A. In the case of a new tower structure, evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence shall consist of at least one of the following:

1. Evidence that there are no existing towers or structures meeting the applicant's engineering requirements within the geographic area that the antenna is intended to serve;

2. If there are towers or structures in the geographic area, evidence that such towers or structures do not have sufficient height or structural strength to meet the applicant's engineering requirements;

3. Evidence that the applicant's proposed antenna would cause electromagnetic (EMF) interference with the antenna of existing towers or structures, or vice versa;

4. A financial analysis that the fees, costs or contractual provisions required by the owner of the property in order to co-locate, or to adapt an existing tower or structure to make it suitable for co-location, exceeds the cost of new tower development. Such analysis shall include written lease/cost estimates from the owner of the tower or structure;

5. Evidence as to the minimum height of tower needed by the applicant, taking into account the need for a higher tower for co-location purposes;

6. The applicant demonstrates that there are other factors that render existing towers unuseable.

B. In the case of a new tower development or the use of an existing structure as a telecommunications tower for the first time, a notarized letter of intent committing the owner and any lessee, on behalf of themselves and their successors in interest, that the tower structure shall be shared with additional users;

C. In the case of a new tower structure, such structure shall be a monopole tower, except as provided in Section 17.030 A 5. If feasible, such tower shall be designed as a stealth facility. Any application for a telecommunications tower shall include certification by a qualified and licensed professional engineer that the design of the antenna support tower conforms to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association, including, but not limited to, certification that such tower is designed and will be constructed in such a manner that in the case of tower failure, such tower will either fold upon itself or collapse upon itself. Such certification shall take into account the proposed users of, and possible future co-locators on, the antenna structure.

## COLUMBUS ZONING ORDINANCE

D. Commercial telecommunication service providers shall provide documentation that the proposed telecommunication facilities comply, or will on completion comply, with the latest applicable federal and state environmental, health and safety standards and regulations, including, but not limited to, those established by the Federal Communications Commission on Radio Frequency Emissions (REF).

E. In the case of a new tower, or when an existing tower structure is being enlarged in size, a visual impact analysis shall be prepared and certified by a qualified licensed professional engineer or architect, which analysis shall include the following information:

1. A site plan prepared by a registered land surveyor licensed in the State of Indiana;
2. Identification of significant existing natural and manmade features adjacent to the proposed tower location, indicating those features that will buffer the proposed tower from adjacent property and rights of way;
3. Identification of at least three specific points, which are reasonably equidistant, within a three (3) mile radius of the proposed tower from which the line of sight analysis is presented. The exact number and location of these line of sight points shall be determined after consultation with staff prior to the preparation and completion of the analysis. The applicant shall then prepare a graphic illustration of the visual impact of the proposed tower. Such graphic illustration shall be a computer enhanced photograph with the computer-generated image of the tower depicted to an accurate scale. Each photograph shall be accompanied by text describing the point where the photograph was taken and how many feet it is from the proposed tower;
4. A description of the visual and aesthetic impact of the proposed tower on all adjacent properties and properties within a 2,000 foot radius of the tower. The applicant shall also provide a specific explanation of the feasibility of camouflage given the needed height of the tower;
5. A site plan showing all proposed landscaping and buffering. All such plans shall provide that the lowest six (6) feet of the tower or facility be fenced by a chain link fence and screened with a Type A Buffer as set forth in Section 17.43.030. Any building which is not enclosed within such fenced area shall be landscaped as required by Section 17.43; and
6. Any additional information requested by staff in order to fully review and evaluate the impact.

F. The Findings of Fact for any decision of the Board of Zoning Appeals denying an application for a telecommunications facility shall be supported by substantial evidence.

G. Within forty-five days after the completion of any telecommunications facility which is being used for the first time as a telecommunications facility (including the attachment of an antenna to an existing structure), the operator or owner shall provide a certificate from a registered professional engineer to the effect that the structure meets all of the requirements set forth in the approved plans.

### **Section 17.47.060 Setback, Placement, Lighting and Insurance**

All telecommunication facilities shall comply with the setback requirement for structures in the zoning district in which it is located, plus any additional distance set forth below.

A. Antennas attached to existing structures shall have the same minimum setback as the structure to which they are attached; provided that any such antenna shall be placed so as to be as inconspicuous as possible as determined in consultation with staff.

B. The required setback for property in an AG, RS, R-1 through R-8, RB or SU district, or for a tower located within 1000 feet of an AG, RS, R-1 through R-8, RB or SU district, other than a tower complying with A above, shall be calculated by adding the required setback for the district in which such tower is located to the greater of (1) 500 feet or (2) the tower height.

C. The required setback from B-1 through B-5 district, or for a tower located within 1000 feet of a B-1 through B-5 district, other than a tower complying with A above, shall be calculated by adding the required setback for the district in which such tower is located to the greater of (1) 200 feet or (2) the tower height.

D. If a tower is located in a PD District, the required setback shall be determined by the Planning Commission or staff as part of the site plan approval process, taking into consideration the nearby uses of the PD District.

E. Towers shall not be illuminated by artificial means unless such lighting is required for such tower by the Federal Aviation Administration or other federal or state

## COLUMBUS ZONING ORDINANCE

authority.

F. All owners/providers of telecommunications facilities shall annually provide the Planning Department with evidence of adequate liability insurance protecting against personal injury or property damage resulting from the construction, failure or collapse of a tower, antenna or accessory equipment.

### **Section 17.47.070 Interference with Public Safety Telecommunications**

A. No new or existing telecommunications facility shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study, prepared by a licensed professional engineer with a specialization in telecommunications, which provides an evaluation of existing and proposed transmission and indicates all potential interference problems.

B. Prior to the commencement of any new service or any change in any existing service, the provider shall give the city ten working days advance notice of such changes, so that such changes may be monitored by the city to ensure that there is no interference with public safety telecommunications. If such interference occurs, it shall be the obligation of the provider to eliminate such interference.

### **Section 17.47.080 Locating Communication Facilities on Public Land**

Antennas and towers may be located and maintained on property of the city, including the public right of way, under the following provisions:

A. If the site is to be an alternate tower structure using an already existing structure, the applicant shall provide to the director of the Planning Department a written request setting forth the proposed site, height and evaluation of the compatibility with the existing facility.

B. If the site is a new facility to be constructed on public land, the applicant shall provide to the director of the Planning Department all of the above information, but also provide an analysis of the proposal's compliance with the Comprehensive Plan and the zoning ordinance.

C. The director of the Planning Department, or a member of staff appointed by the director, will meet review the plan within ten (10) working days after submission and schedule a meeting with the applicant to discuss the plan. The applicant may then make such modifications or changes to the request as the applicant deems necessary.

D. The applicant shall then submit a request to the appropriate public body which has jurisdiction over the site or facility proposed to be used, for permission to use such site.

E. If the applicant executes a contract with the appropriate body, the applicant shall then make an application for a certificate of zoning compliance or a conditional use permit, as applicable. The applicant shall include a copy of the executed contract as part of the application.

### **Section 17.47.090 Removal**

A. The owner of any telecommunications facility shall file annually with the Department of Code Enforcement a report certifying the continuing operation of every facility located at any telecommunications facilities. Failure to so file shall be deemed to mean that the facility is no longer in operation. Each operator of a telecommunications facility shall send to the Planning Department of the city a copy of any notice sent to the FCC of intention to cease operations. Any abandoned or unused facilities shall be removed (including the tower, support structure and buildings) within 180 days of ceasing to be used as a telecommunications facility and the site shall be restored to its original state at the expense of the owner of the property. Any owner of property leased to a telecommunications provider may require the leasee to remove any tower and associated facilities upon cessation of operation of the facility as a telecommunications facility.

If the site is an alternative tower structure and is used for purposes other than telecommunication facilities, only the antenna and other equipment related to the telecommunications use need to be removed, and the structure shall be restored to its original state.

B. If the tower and associated facilities are not removed within such time, the tower and the associated facilities shall be deemed a nuisance under applicable law. If not removed within such time, (i) the city may seek injunctive relief or any other remedy from a court of competent jurisdiction in Bartholomew County, or (ii) the

## COLUMBUS ZONING ORDINANCE

Board of Public Works and Safety may authorize the tower and associated facilities be removed by the city and the costs billed to the owner. All costs incurred by the city upon the failure of the tower to be promptly removed by the owner, including all costs of enforcement and reasonable attorney fees, may be assessed by the city as a lien against the property. A change of venue from Bartholomew County shall not be granted in such a case, as provided in IC 36-7-4-1014.

### **Section 17.47.100 Existing Telecommunication Facilities**

Lawfully existing telecommunication facilities that do not conform with the requirements of this Chapter 17.47 shall be considered legal nonconforming uses, subject to Chapter 17.60. However, placing additional antennas on a nonconforming structure in accordance with this chapter shall not be considered an expansion of the nonconforming use, nor shall it be considered to be an increase in the degree of nonconformity.

### **Section 17.47.120 Temporary Telecommunication Facilities**

Temporary telecommunication facilities or antennas shall be permitted for emergency communication, or in the event of equipment failure for a maximum period of two (2) weeks, provided that any owner/provider of such temporary facility or antenna shall be in compliance with Section 17.47.060 F. (Ord. No. 39, 1999, §III, 12-7-99)

## **CHAPTER 17.48 AIRPORT HAZARD ZONE**

### **Section 17.48.010 Intent.**

The Airport Hazard Zone is intended for the flight approach areas of airports, and the regulations in this Chapter are intended to prevent the development of high residential densities or the concentration of large numbers of persons in those areas endangered by low flying aircraft in the process of landing or taking off. Preferably, these areas should be retained in some form of open use or low intensity use. The special requirements of this zone shall apply in addition to the requirements of the primary use district within which a specific property is located. (Ord. No. 2239, §308.1; Prior Code, §35-267)

### **Section 17.48.020 Establishment of Zones; Airport Zone Map.**

There are created and established Airport Hazard Zones, which include all of the lands and structures within the Approach Zones, Transition Zones, Horizontal Zones and Conical Zones. Such zones are indicated on the airport zone map which together with related data and policies of current adoption as set forth in part 77 of the Federal Aviation Regulations are declared to be a part of this Chapter and incorporated herein by reference. Such regulations adopted by reference shall be on file in the Plan Commission Office and open to public examination. (Ord. No. 2239, §308.2; Prior Code, §35-268)

### **Section 17.48.030 Height Restrictions.**

No structure or tree shall be erected, altered, allowed to grow or maintained in any Airport Hazard Zone to a height in excess of the height limit established for such zone. Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail. Such height limitations are indicated in the regulations incorporated by reference in Section 17.48.020 (Ord. No. 2239, §308.3; Prior Code, §35-269)

### **Section 17.48.040 Land Use Restricted.**

Notwithstanding any other Section of this Title, no use may be made of land within any district established by this Title inside an Airport Hazard Zone in such a manner as to create electrical interference with radio communication between the airport and the aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, takeoff or maneuvering of aircraft. (Ord. No. 2239, §308.4; Prior Code, §35-270)

### **Section 17.48.050 Nonconforming Structures and Trees to Be Marked and Lighted.**

## COLUMBUS ZONING ORDINANCE

The owner of any nonconforming structure or tree in an Airport Hazard Zone is required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Board of Aviation Commissioners to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the Board of Aviation Commissioners. (Ord. No. 2239, §308.5; Prior Code, §35-271)

### **Section 17.48.060 Prohibited Uses.**

Within that part of the Approach Zone in an Airport Hazard Zone within a horizontal radius of ten thousand (10,000) feet from the airport reference point, no building, structure or premises shall be erected, relocated or converted for use as a church, school, lodge, club, theater and other places of public assembly, multi-family residential development, hospitals, institutions, sports arenas, amusement parks and similar uses where concentrations of persons are customary. (Ord. No. 2239, §308.6; Prior Code, §35-272)

## **CHAPTER 17.50 SPECIAL USES**

### **Section 17.50.010 Purpose; Establishment of Special Uses; Application; Guidelines to be Used by Commission; Limitation on Use Designation; List of Special Uses.**

A. Purpose. The development and implementation of this Title is based upon the division of the City into districts, within which districts the height, area, bulk, use and location of buildings and use of land is substantially uniform. It is recognized, however, that there are special uses which, because of their unique characteristics cannot always be properly classified in districts without consideration, in each case, of the impact of those uses upon the use and value of adjacent properties.

Special uses are primarily of a public service nature or traditionally affected with a public interest, or a private nature with distinct characteristics. Therefore, it is deemed necessary to provide for special uses which cannot be adjusted to their appropriate environments by other means with a reasonable degree of mutual protection.

B. Establishment. Special uses may be permitted after public notice and public hearing, and determination by the commission that the location and size of the special use and type of operation involved therein is consistent with the spirit, purpose and intent of the Master Plan.

C. Procedure. An application for special use classification shall be accompanied by an area location map, copies of a site plan showing the proposed use of land, the arrangement of all buildings and structures, the location of streets and driveways, parking and loading areas, utility lines, sewerage and water facilities, drainage, landscaping and other pertinent features. SU-6, Manufactured Home Parks, Manufactured Home Subdivisions, and Recreational Vehicle Parks, may omit utility lines, sewerage and water facilities from the initial site plan. These items will be evaluated prior to the issuance of a zoning compliance certificate but after rezoning. (Ord. #20, §3, 5-4-93, Ord. No. 14, 1995, §3, 3-5-95; Ord. No. 49, §III, 12-5-95)

For each application for a special use, the Commission shall report to the Common Council its findings and recommendations, in the same manner as for amendments to this Title, in accordance with Section 17.02.160, including the stipulation of such conditions and guarantees as are deemed necessary for the protection of the public interest.

After approval of the special use, if the proposed development differs substantially from that shown on the approved site plan, application must be made to the plan commission to amend the site plan. The director of planning may authorize minor modifications that do not:

1. Alter the basic relationship of the proposed development to adjacent property;
2. Change the uses permitted;
3. Increase the maximum density, floor area, or height by more than 15%;
4. Decrease the amount of off-street parking;
5. Reduce the minimum yards or setbacks by more than 15%;

## COLUMBUS ZONING ORDINANCE

6. Alter site ingress or egress, or create a substantial change to on-site circulation, as determined by the city engineer.

Upon submission of a request for a minor modification, the Director shall have ten (10) working days to respond to the petitioner, by either approving or rejecting the request. An applicant may appeal the decision of the Director to the Plan Commission.

D. Standards. The following findings shall be used as guidelines by the Commission in acting upon special use applications:

1. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.

2. The special use will not be injurious to the use and enjoyment of the other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

4. Adequate utilities, landscaping, buffering and other necessary facilities will be provided. In addition, the site plan shall indicate that the lot area and access to the site are adequate for the use contemplated. (Ord. No. 20, 1985, 4-2-85; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 49, §III, 12-5-95)

5. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The special use shall be permitted only if the public streets, drainage facilities, and utilities are adequate to serve the proposed development. Any public streets which will carry the increased traffic from the special use shall be adequate to accommodate such traffic. Drainage facilities and public utilities shall have sufficient capacity to serve the development. When public improvements are required, the developer or authorized representative shall be required to post financial guarantees of performance and maintenance for such improvements in the manner specified in the Subdivision Control Ordinance. (Ord. No. 14, §3, 3-5-95)

E. Limitations. The use of every special use shall be limited to the use first lawfully established therein. If such use shall thereafter be abandoned, or in the event such use has not been established within two (2) years after the date of granting thereof, the area comprising such special use shall by commission action have such use designation declared to be extended for a specified period of time, or the plan commission may initiate rezoning of the property.

F. Conditions. Prior to the granting of any special use, the Commission may recommend and the Common Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special uses as is deemed necessary for the protection of the public interest, and to secure compliance with standards and requirements. In all cases in which special uses are granted, the Common Council may require such evidence and guarantees as it deems necessary as assurance that the conditions stipulated in connection therewith will be complied with.

G. The following special uses shall be subject to the Sections of this Chapter and all other applicable provisions of this ordinance:

## COLUMBUS ZONING ORDINANCE

<u>Name of Special Use</u>	<u>Zoning Symbols</u>
Churches	SU-1
Schools	SU-2
Public Parks and recreational facilities	SU-3
Cemeteries	SU-4
Children's home and child care institutions	SU-5
Manufactured home parks, manufactured home subdivisions, recreational vehicle parks	SU-6
Correctional and penal institutions	SU-7
Community centers	SU-8
Hospitals and sanitariums	SU-9
Riding academies, stables and animal hospitals	SU-10
Public buildings and uses	SU-11
Airports, heliports, and landing fields	SU-12
Utility installations, mass transportation depot, and radio or television towers	SU-13
Refuse disposal facilities	SU-14
Clubs, private and public, golf and country clubs, and lodges operated by educational, social or fraternal organizations	SU-15
Institutions of higher learning, boarding, vocational and special schools	SU-16
Institutional and philanthropic uses, nursing homes, elderly housing and similar uses	SU-17
Amusement parks, racing establishments and sports arenas	SU-19
Private recreational facilities	SU-20
Mineral extraction operations	SU-21
Cluster developments	SU-22

(Ord. No. 2239, §301; Ord. No. 2396; Ord. No. 3004; Prior Code, §35-273; Ord. No. 14, §3, 3-5-95)

### **Section 17.50.020 Churches (SU-1).**

The following rules and regulations shall apply to churches, and such special use shall be designated SU-1:

A. For purposes of this Section, a church is deemed to be a congregation of persons meeting regularly to hold religious services of worship. Accessory uses and buildings necessary for the carrying out of the church program are permitted.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.030 Schools (SU-2).**

The following rules and regulations shall apply to schools, and such special uses shall be designated SU-2:

## COLUMBUS ZONING ORDINANCE

A. For the purposes of this Section, schools are deemed to include public and private schools. Accessory uses and buildings necessary for the carrying out of the school program are permitted.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

E. Any signs not shown on the site plan shall be as regulated in Title 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.040 Public Parks and Recreational Facilities (SU-3).**

The following rules and regulations shall apply to public parks and recreational facilities, and such special uses shall be designated SU-3:

A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

B. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Off-street parking space shall be adequate, as determined by the plan commission.

D. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.050 Cemeteries (SU-4).**

The following rules and regulations shall apply to cemeteries, and such special use shall be designated SU-4:

A. For purposes of this Section, an office, crematorium, mausoleum and other buildings or structures necessary to the operation of a cemetery shall be permitted as accessory uses thereto.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate, as determined by the plan commission.

E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.060 Children's Home and Child Care Institutions (SU-5).**

The following rules and regulations shall apply to children's home and child care institutions, and such special uses shall be designated SU-5:

A. For purposes of this Section, children's home and child care institutions are deemed to include the receiving and caring on a general care basis of more than five (5) dependent children.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

E. A minimum outdoor play area of at least fifty (50) square feet per child shall be provided, and shall be enclosed on all sides by some combination of fencing and landscaping, which is acceptable to the plan commission.

F. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

### **Section 17.50.065 Manufactured Home Parks, Manufactured Home Subdivisions, and Recreation at Vehicle Parks (SU-6)** (Ord. No. 14, 1995, §3, 3-5-95)

The following rules and regulations shall apply to manufactured home parks, manufactured home subdivisions, and recreational vehicle parks, and such special use will be designated SU-6. Uses permitted include Type I and Type II manufactured homes and uses accessory thereto.

The standards contained in this ordinance are minimum standards; the Commission may impose greater requirements in order to carry out the spirit and intent of this ordinance. Conditions which could necessitate greater requirements include but are not limited to topography, soil types, traffic conditions, or the need to ensure compatibility with the surrounding area.

#### **A. Manufactured Home Park Regulations**

1. Each manufactured home must be tied down and have perimeter skirting.
2. Manufactured Home Parks shall be in accordance with IC, 13-1-7-1 et seq., Rule 410 IAC 6-6 and their subsequent amendments, the State Board of Health Regulations, and the requirements of this Chapter.
3. The minimum area of a manufactured home park shall be five (5) acres. Frontage shall be adequate for the proposed use as determined by the plan commission.
4. The minimum site size or area shall be 4000 sq. ft. with a minimum site width of 30 ft. The site size may be less than 4000 sq. ft. if the amount by which the site size is reduced is devoted to common open space and the site size is not less than 3200 sq. ft.
5. Minimum front setbacks on private, interior streets shall be 10 ft. from edge of pavement. Front setbacks on public streets shall be as regulated in Section 17.42.020 of this Title. Minimum side and rear setbacks shall be 5 ft. for a structure up to 20 ft. in height.
6. Maximum height for accessory structures is 15 ft. Maximum height for primary structures is 20 ft.
7. Each manufactured home site is entitled to one accessory structure per site in addition to a carport or garage. Attached or detached garages, mini-barns, barns, etc. are to be counted toward the total accessory building area. Unenclosed structures such as carports, gazebos, picnic shelters, are not to be counted. Accessory buildings are not deemed to include doghouses, treehouses, and other such incidental buildings. The total area of all accessory structures shall not exceed 20% of lot area.
8. Landscape buffering and screening shall be adequate as determined by the plan commission.
9. A minimum of 400 sq. ft. per site shall be dedicated to open space, a portion of which shall be an active recreational area, or 1/4 acre, whichever is greater. Open space shall be configured for the activity for which it is designed. The Commission may waive this open space requirement if there are suitable public recreational facilities in close proximity to the proposed development.
10. Management offices, storage, day care, laundry and dry cleaning facilities, and other structures customarily incidental to a manufactured home park shall be permitted as accessory uses, provided that the following criteria are met:
  - a. They are subordinate to the residential character of the park.
  - b. They are located, designed and intended to serve only the needs of persons living in the park.
  - c. The establishments shall present no visible evidence of their business nature to areas outside the park.
  - d. Parking per building shall be as regulated in Section 17.44.
11. Model manufactured homes as sales units provided that the number of model homes is limited to 10% of the authorized number of units in the park. Model homes must comply with all standards set forth in the SU-6 district. One unit may be used as a sales office. In addition, the sales office must meet the criteria in Section 17.50.065 A 10. Manufactured homes placed on lots as units for sale on speculation are permitted.
12. Parking spaces shall be adequate for the use and shall be located conveniently near each manufactured home site, and as further regulated in Section 17.44. Guest parking spaces or overflow parking spaces shall be provided as regulated in Rule 410 IAC 6-6 and its subsequent amendments, shall be distributed evenly throughout the park, and as further regulated in Section 17.44.
13. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

14. Width of private interior streets and diameter of cul-de-sacs shall be provided as regulated in Rule 410 IAC 6-6 and its subsequent amendments. Minimum pavement construction standards shall be those set forth in the Subdivision Control Ordinance.

15. Sidewalks or other pedestrian pathways may be required. Such pedestrian system shall be designed for safe and convenient pedestrian circulation.

### B. Manufactured Home Subdivision Regulations

1. The manufactured home must have a permanent foundation placed in accordance with Appendix C of the Indiana One and Two Family Dwelling Code, and a permanent perimeter skirting of eight (8) inch concrete block installed in accordance with American Standard Testing (ASTM) requirements of current adoption or poured concrete wall.

2. Minimum area of a manufactured home park subdivision shall be five (5) acres. Frontage shall be adequate for the proposed use as determined by the plan commission

3. The minimum lot size or area shall be 5000 sq. ft. with a minimum site width of 50 ft.

4. Minimum setback along street right-of-way lines shall be as determined necessary by the plan commission. Minimum side and rear setback lines are 5 ft. for a structure up to 20 ft. in height and 7.5 ft. for a structure higher than 20 ft. but no more than 30 ft. (Ord. No. 9, §3, 2-18-97)

5. Maximum height for accessory structures is 20 ft. Maximum height for primary structures is 35 ft.

6. Accessory Uses shall be regulated in Chapter 17.52 of this Title.

7. Landscape buffering and screening shall be adequate as determined by plan commission.

8. Off-street parking spaces shall be provided on the basis of two (2) parking spaces per dwelling unit, and as further regulated in Section 17.44.

9. Each manufactured home subdivision shall comply with the requirements of The Subdivision Control Ordinance.

10. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 9, §3, 2-18-97)

### C. Recreational Vehicle Parks

1. Recreational Vehicle Parks shall be in accordance with Rule 410 IAC 6-7 and its subsequent amendments, the State Board of Health Regulations, and the requirements of this Chapter.

2. Minimum front setback lines on private, interior streets shall be 10 ft. Minimum setback along all street right-of-way lines shall be as determined necessary by the plan commission. Minimum side setback lines shall be 5 ft. for a structure up to 20 ft. in height. Rear setback standards to be determined by the Columbus Plan Commission. (Ord. No. 9, §3, 2-18-97)

3. Landscape buffering and screening shall be adequate as determined by the plan commission.

4. All recreational vehicles shall be parked in pull-through lots which are a minimum of 40 -ft. long and 10 -ft. wide. 5. Maximum height shall be 13 ft. 6 inches for vehicles and 30 ft. for structures.

6. Recreational vehicles shall be separated from each other and from other park buildings or structures by at least 10 ft.

7. Management offices, playground and picnic equipment, sanitation and laundry cleaning facilities, and other structures customarily incidental to a recreational vehicle park shall be permitted as accessory uses; provided that the following criteria are met:

a. They are subordinate to the residential character of the park.

b. They are located, designed and intended to serve only the needs of persons living in the park.

c. The establishments shall present no visible evidence of their business nature to areas outside the park.

d. Parking per building shall be as regulated in Section 17.44.

8. A register shall be kept as regulated in Rule 410 IAC 6-7 and its subsequent amendments.

9. Off - street parking shall be provided on the basis of 1 space for every 5 pull-through lots, and as further regulated by Section 17.44.

10. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

### **Section 17.50.070 Correctional and Penal Institutions (SU-7).**

The following rules and regulations shall apply to correctional and penal institutions, and such uses shall be designated SU-7:

- A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- B. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Landscape buffering and screening shall be adequate as determined by the plan commission. (Ord. No. 49, §III, 12-5-95)
- D. Off-street parking shall be adequate, as determined by the plan commission.
- E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.080 Community Centers (SU-8).**

The following rules and regulations shall apply to community centers, and such special uses shall be designated SU-8:

- A. For purposes of this Section, a community center is deemed to include any combination of uses such as social centers, meeting rooms, swimming pools, golf courses, play fields and similar activities.
- B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)
- D. Outdoor activity areas shall be enclosed whenever practicable in accordance with the applicable Sections of this Title.
- E. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)
- F. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.090 Hospitals and Sanitariums (SU-9).**

The following rules and regulations shall apply to hospitals and sanitariums, and such special uses shall be designated SU-9:

- A. For purposes of this Section, hospitals and sanitariums are deemed to include public and private health institutions. Accessory uses and buildings necessary for the carrying out of the health program are permitted.
- B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)
- D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)
- E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.100 Riding Academies, Stables and Animal Hospitals (SU-10).**

The following rules and regulations shall apply to riding academies, stables and animal hospitals, and such special uses shall be designated SU-10:

- A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- B. Landscape buffering and screening shall be adequate as determined by the plan commission. (Ord. No. 49, §III, 12-5-95)

## COLUMBUS ZONING ORDINANCE

- C. Sanitation facilities shall be approved by the local health department.
- D. Off-street parking space shall be adequate, as determined by the plan commission.
- E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.110 Public Buildings and Uses (SU-11).**

The following rules and regulations shall apply to public buildings and uses, and such special uses shall be designated SU-11:

- A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- B. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)
- D. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.120 Airports, Heliports and Landing Fields (SU-12).**

The following rules and regulations shall apply to airports, heliports and landing fields, and such special uses shall be designated SU-12:

- A. Accessory uses necessary to the operation of such use shall be permitted; provided, that unrelated business and industrial uses shall be construed as primary zone districts.
- B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Clear zones which no structure shall penetrate shall be provided. For airports, see Chapter 17.48 of this Title. For heliports, such clear zone shall be described by a projected imaginary surface, the base of which encompasses the landing area, extends upward and outward at a slope equal to one (1) foot of vertical elevation to eight (8) feet of horizontal distance, and extends to a vertical projection of the heliport boundary. The operation of a heliport shall clearly not be hazardous because of the following conditions:
  - 1. Conflicts in approach areas of other landing fields.
  - 2. Existing or proposed structures.
  - 3. Noise objectionable to adjacent property.
  - 4. Blowing debris resulting from rotor downwash.
- D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)
- E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.130 Utility Installations, Mass Transportation Passenger Depots and Radio and Television Towers (SU-13).**

The following rules and regulations shall apply to utility installations, mass transportation passenger depots and radio and television towers, and such uses shall be designated SU-13:

- A. For purposes of this Section, such uses shall be deemed to include those utility and transportation uses necessary for the service or convenience of the general public. Accessory uses necessary to the operation of such use shall be permitted.
- B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)
- C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

D. Fencing and landscape screening shall be provided enclosing storage areas, treatment areas, guy anchorages, high voltage or other danger producing equipment or structures.

E. Private sewer and water utilities shall be subject to the following conditions:

1. Certificates of approval from applicable governmental units.
2. Sureties satisfactory to the City Utility Service Board and the Commission to insure the proper installation, operation and maintenance of such facilities.

3. Conditions established may provide that when public utilities become available in the areas, the private utilities shall be discontinued or combined with the public system, and services to the properties affected shall be from public systems.

4. Such facilities shall be completely fenced so as to be inaccessible, except through a locked gate.

F. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

G. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.140 Refuse Disposal Facilities (SU-14).<sup>2</sup>**

The following rules and regulations shall apply to refuse disposal facilities, and such special use shall be designated SU-14:

A. It is the intent of this Section to establish reasonable and uniform limitations, safeguards, and controls for the operation and use of refuse disposal facilities. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interests of the community.

B. For purposes of this Section, a refuse disposal facility is deemed to include primary use of the property as a sanitary landfill, incineration, composting facility, grinding or any other process oriented to disintegration or recycling of solid waste material; provided that salvaging of scrap or junk shall not be permitted in any refuse disposal facility (SU-14) other than as an accessory use.

1. It is further provided that refuse disposal facilities (SU-14) as herein established shall be operated and enlarged or diminished only in accordance with an operational site plan.

2. Accessory uses shall be permitted, which are incidental to, maintained on the same lot and commonly associated with the operation of the special use, including storage, parking of trucks and equipment and offices, subject to the Sections of this Title.

3. No use in the SU-14 classification shall be maintained or operated in a manner constituting a hazard to health, safety or the general public welfare.

C. Minimum setback lines for any structure or improvements in connection with refuse disposal operations along all street right-of-way lines and side and rear setback lines shall be as determined necessary by the plan commission. Landscape buffering and screening shall be adequate as determined by the plan commission. (Ord. No. 49, §III, 12-5-95, Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate, as determined by the plan commission.

E. Sanitary landfills must comply with federal, state, and local regulations.

F. An application for SU-14 shall be accompanied by an operational site plan indicating clearly the orderly development, operation and maintenance of the refuse disposal facility.

G. Sanitary landfill standards, supplementary to other provisions of this Section, are as follows:

1. The operational site plan shall indicate the following: the proposed fill area; any borrow area; access roads; on site drives; grades for proper drainage on each lift required and a typical cross section of a lift; special drainage devices if necessary; location and type of fencing; structures existing or to be located on the site; existing wooded areas, trees, ponds or other natural features to be preserved; existing and proposed utilities; phasing of landfill operations on the site; a plan and schedule for site restoration and completion; a plan for the ultimate land use of the site; and all other pertinent information to indicate clearly the orderly development, operation and completion of the sanitary landfill.

## COLUMBUS ZONING ORDINANCE

2. Such operations shall be so designed and operated that conditions of unlawful pollution will not be created and injury to ground and surface waters will be avoided which might interfere with legitimate water uses. Water filled areas not directly connected to natural lakes, rivers or streams may be filled with specific inert material not detrimental to legitimate water uses and which will not create a nuisance or hazard to health. Special approval shall be required in writing from appropriate authority.

3. Hazardous materials, including liquids and sewage, shall not be disposed of in a sanitary landfill unless special provisions are made for such disposal through the health department having jurisdiction. This provision in no way precludes the right of a landfill operator to exclude any materials as a part of his operational standards.

4. The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off water falling on the fill and to prevent the collection of standing water.

5. It shall be expressly forbidden to make garbage available for animal consumption at any sanitary landfill site.

6. Measures shall be provided to control dust and blowing paper. The general area shall be kept clean and orderly.

7. Refuse shall be spread so that it can be compacted in layers of suitable depth. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the health department having jurisdiction.

8. Cover material shall be provided on a regular basis of such type, depth and frequency as approved by the health department having jurisdiction, and the final cover shall be maintained for a period of two (2) years.

9. Upon completion of a landfill operation, or any phase thereof as indicated on the approved operational site plan, the land shall be graded, backfilled and finished to a surface which will accomplish the following:

a. Result in a level, sloping or gently rolling topography in substantial conformity or desirable relationship to the original site and land area immediately surrounding.

b. Minimize erosion due to rainfall. Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of vegetation producing land areas immediately surrounding, and to a depth of at least six (6) inches.

c. Such topsoil shall be planted with trees, shrubs, legumes or grasses, as indicated on the approved operational site plan. (Ord. No. 2239, §301.14; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-287; Ord. No. 32, §1, 6-3-86)

### **Section 17.50.150 Private and Public Clubs, Golf and Country Clubs and Lodges Operated by Educational, Social or Fraternal Organizations (SU-15).**

The following rules and regulations shall apply to private and public clubs, golf and country clubs and lodges operated by educational, social or fraternal organizations, and such special uses shall be designated SU-15:

A. Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, bars, swimming pools and similar activities, shall be permitted; provided, that such uses where the conduct of business is the principal activity shall not be permitted.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Landscape buffering shall be adequate as determined by the plan commission. (Ord. No. 49, §III, 12-5-95)

E. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

F. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

### **Section 17.50.160 Institutions of Higher Learning and Boarding, Vocational and Special Schools (SU-16).**

The following rules and regulations shall apply to institutions of higher learning and boarding, vocational and special schools, and such special uses shall be designated SU-16:

A. Accessory uses necessary to the operation of such use shall be permitted, including housing, bookstores, campus uses and similar activities.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

D. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

E. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.170 Institutional and Philanthropic Uses, Nursing Homes, Elderly Housing and Similar Uses (SU-17).**

The following rules and regulations shall apply to institutional and philanthropic uses, nursing homes, elderly housing and similar uses, and such special uses shall be designated SU-17:

A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

B. Maximum height shall be determined by the plan commission. (Ord. No. 9, §3, 2-18-97)

C. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)

D. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.180 Amusement Parks, Racing Establishments and Sports Arenas (SU-19).**

The following rules and regulations shall apply to amusement parks, racing establishments and sports arenas, and such special uses shall be designated SU-19:

A. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

B. Fencing and landscape screening shall be provided adequate to enclose the activities therein.

C. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)f

D. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.190 Private Recreational Facilities (SU-20).**

The following rules and regulations shall apply to private recreational facilities, and such special use shall be designated SU-20:

A. For purposes of this Section, a private recreational facility is deemed to include:

1. Marinas, including facilities for storage and repair of boats and sale of boating supplies and fuel, as accessory use.

2. Fish, game and gun clubs.

3. Camping grounds.

4. Lake and waterfront activities.

B. Minimum setback along all street rights-of-way and side and rear setback lines shall be as determined necessary by the plan commission. (Ord. No. 9, §3, 2-18-97)

## COLUMBUS ZONING ORDINANCE

- C. Fencing and landscape screening shall be provided as determined necessary by the plan commission.
- D. Private recreational facilities located in flood hazard areas shall comply with Chapter 17.62, Floodplain Regulations.
- E. Off-street parking space shall be adequate as determined by the plan commission. (Ord. No. 1, §II, 1-4-94)
- F. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.200 Mineral Extraction Operations (SU-21).**

The following rules and regulations shall apply to mineral extraction operations, and such special use shall be designated SU-21:

A. It is the intent of this Section to establish reasonable and uniform limitations, safeguards and controls for the extraction of sand, gravel, borrow and other mineral or earthen materials. Such controls are deemed necessary in the public interest to regulate practices which will provide for a more economic production of natural resources, and which will provide due consideration to the surface use of land. According to Section 36-7-4-1103 of the Indiana Code, an Advisory Plan Commission, such as the Columbus Plan Commission, may not regulate mineral extraction outside of the urban area. Urban areas must include at least eight residences within any quarter mile square area.

B. No structure or land shall be used and no building, structure, sand, gravel or borrow plant or sand, gravel or borrow equipment shall hereafter be located except for one (1) or more of the following uses:

1. Mining, quarrying, excavating of sand, gravel, borrow or other mineral or earthen materials.
2. Location of processing plants for the processing and stockpiling of sand, gravel, borrow or other mineral or earthen materials, mined on the premises, only if the plan commission specifically permits; provided further, that mineral extraction operations (SU-21), as herein established, shall be enlarged or diminished only by ordinance.
3. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of the special use, including storage, parking of trucks and equipment and offices, subject to the terms of this Title.

C. Nothing in this Title shall prevent the excavation of borrow or other earthen materials in any zone district of this Title pursuant to a contract therefor with the State Highway Department or other governmental unit, as a part of a highway construction project; provided, that the following requirements have been met prior to the beginning of such excavation:

1. A bond for such excavation shall have been filed with the State Highway Department or other governmental unit in accordance with all such governmental unit's applicable requirements, specifications and performance standards of excavation, operation and restoration.

2. A copy of such bond shall be filed with the Plan Commission, together with a site plan, area map and legal description of the land to be included in such borrow excavation.

3. A zoning compliance permit for such borrow excavation shall be obtained from the Plan Commission. Such permit shall be issued upon the filing of such bond, site plan, area map and legal description.

D. Requirements and regulations are as follows:

1. No gravel, sand, borrow or other mineral or earthen materials shall be mined in any part of the area to which this Title applies, unless a permit for such work has been issued by the Plan Commission.

2. At the time of filing application for such special use, the application shall present plans and proposals for the reuse and renovation of the property upon cessation of the mineral extraction operation.

3. When the mineral extraction operation is located in flood hazard areas the operation shall comply with Chapter 17.62, Floodplain Regulations.

4. Fencing and landscaping shall be adequate as determined by the plan commission. When the mineral extraction operation is in close proximity to residential property and presents water bodies, steep slopes and hazardous equipment operations, suitable protective measures shall be taken to save people and animals from harm. (Ord. No. 49, §III, 12-5-95)

## COLUMBUS ZONING ORDINANCE

5. All equipment used for the production of sand, gravel, borrow, and other mineral or earthen materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable, noises, vibrations or dust which are injurious or annoying to persons living in the vicinity.

6. Side and rear setback lines shall be as determined by the plan commission.

7. No excavation shall be made closer than two hundred (200) feet from the right-of-way line of any existing or platted street, road or highway; except, that mining of sand, gravel, borrow and other mineral and earthen materials may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing elevation of the adjoining and existing or platted street, road or highway.

8. All excavation shall either be made to a water-producing depth, such depth to be not less than five (5) feet measured from the low water mark or graded or backfilled with nonnoxious, noninflammable and noncombustible solids to assure the following:

a. The excavated area will not collect and permit stagnant water to remain therein.

b. The surface of such area shall be graded or backfilled as necessary so as to reduce the peaks and depressions thereof to a surface which will result in a gently rolling topography and minimize erosion due to rainfall, and which will be in substantial conformity to the land area immediately surrounding.

c. To plant trees, shrubs, legumes or grasses upon the area in such a manner as to assure revegetation of the area. A soil surface shall be provided of a quality at least equal to the topsoil of vegetation producing land areas in the immediate vicinity, and fertilizing, mulching and seeding provided to assure satisfactory results.

9. The banks of all excavations not backfilled as provided in Subparagraph D 9 of this Section shall be sloped to the water line at a slope which shall not be less than one and one-half (1½) feet horizontal, to one (1) foot vertical, and such bank shall be sodded or surfaced with a maximum of six (6) inches of suitable soil and the same shall be seeded with grass seed.

10. Whenever the permit referred to in Subparagraph D 1 of this Section shall have expired or whenever any gravel, sand, borrow or other mineral or earthen materials' pit or excavation shall have been abandoned for any period exceeding twelve (12) consecutive months, then all plants, buildings, structures, (except fences), stockpiles and equipment shall be entirely removed from such property.

E. Off-street parking space shall be as determined necessary by the plan commission.

F. Any signs not shown on the site plan shall be as regulated in Chapter 17.46 of this Title. (Ord. No. 2239, §301.1; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-274; Ord. No. 32, 1986, §1, 6-3-86; Ord. No. 94-41, §3, 10-5-94, Ord. No. 9, §3, 2-18-97)

### **Section 17.50.210 Cluster Developments (SU-22).**

The following rules and regulations shall apply to cluster developments, and such special use shall be designated SU-22:

A. It is the intent of this Section to provide for residential cluster developments. The provisions herein provided shall apply only to proposed new residential developments of detached, attached or semi-attached dwellings in platted subdivisions. For mixed use developments, see Chapter 17.22 of this Title.

B. The minimum lot size for each dwelling unit of a lot of record within the development shall be three thousand two hundred (3,200) square feet; provided, that the plan commission may require an area to be set aside as common open space.

C. Yards or setback distances and landscape buffering shall be as determined necessary by the plan commission. Such areas shall not be used for parking or driveways. (Ord. No. 49, §III, 12-5-95)

D. The floor-area ratio for the development shall be approved by the plan commission. Lot sizes and density must be compatible with adjacent zoning.

E. Upon adoption by the Common Council of a cluster development SU-22, the development shall be returned to the Commission which shall thereafter exercise continuing jurisdiction through the platting process.

F. Standards and conditions shall be as follows:

1. The subdivision shall be designed to produce an environment of stable and desirable character, provide variety but also be harmonious with its surrounding neighborhood and be consistent with the intent and purpose of the cluster development regulations to promote public health, safety, convenience and general welfare.

## COLUMBUS ZONING ORDINANCE

2. Adequate provisions shall be provided for the perpetual responsibility, maintenance and liability of the open space areas by the inclusion of covenants running with the land. Such covenants shall contain provisions for:

a. Obligating purchasers to automatically participate in a homeowners' association, to support maintenance of the open areas by paying assessments to the association and to subject their properties to a lien for enforcement of payment of the respective assessments.

b. Obligating such association to be responsible for the open space, private driveways or other areas held in common and to maintain the same.

c. Providing for agreements that if the City is required to perform any maintenance work, such purchasers would pay the cost thereof, and that the same shall be a lien upon their properties until such cost is paid in full.

d. Insuring that the subdivider shall be responsible for the formation of the homeowners' association and shall remain a member until all of the lots of record are sold.

e. Assurance that the certificate of incorporation, declaration of covenants and restrictions, association bylaws, contracts and agreements and legal description of the tract and each lot therein shall be included in the deeds or other instruments of conveyance. Such declarations shall be included in the deed or other instrument of conveyance of each lot of record and shall be made binding on all purchasers. (Ord. No. 2239, §301.22; Ord. No. 20, 1985, 4-2-85; Prior Code, §35-295)

(Former Wording Repealed by Ord. No. 2396)

### CHAPTER 17.52 ACCESSORY USES

#### **Section 17.52.010 Purpose.**

Accessory uses shall be permitted in all zone districts in accordance with the Sections of this Chapter. In order to further the objectives of the Comprehensive Plan, to promote public safety and general welfare, and to encourage the development and maintenance of attractive residential, commercial, industrial, and open space areas, limitations are placed on the nature, bulk, height, extent, and placement of accessory uses. (Ord. No. 35, 1986, §1, 6-3-86; Prior Code §35-297)

#### **Section 17.52.020 General Requirements.**

Accessory uses shall meet the following general requirements, as well as any other specific requirements set forth in this Chapter. Accessory uses shall be:

A. Incidental and subordinate to and commonly associated with the operation of the primary use of the lot.

B. Operated and maintained under the same ownership and on the same lot as the primary use.

C. Clearly subordinate in height, area, bulk, extent and purpose to the primary use served.

D. Not located closer to any lot line than the minimum setback line required, unless specified otherwise in this Title.

E. Not permitted prior to the erection and operation of the primary use, unless a temporary permit is obtained in accordance with Chapter 17.54 of this Title. (Ord. No. 35, 1986, §1, 6-3-86)

F. Permitted within the front yard toward which the main structure is not oriented when such structure is located on a lot with more than one front yard, except that, such accessory structure shall not be any closer than five (5) feet to such front property line. (Ord. No. 17, 1994, §3,5-9-94, Prior Code §35-297a)

#### **Section 17.52.030 Interpretation.**

Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and structures of a similar nature shall be permitted as accessory uses.

A. The growing of vegetation is permitted; provided, that such operation is not for a profit.

B. The keeping of domestic pets is permitted; provided, that it is not for profit and not construed as a kennel.

C. Fences, walls, and structural screens are permitted when they do not impede intersection visibility, unless specified otherwise in this Title. (Ord. No. 2239, §302.2; Prior Code, §35-298)

## COLUMBUS ZONING ORDINANCE

### **Section 17.52.040 Permitted Uses.**

Accessory uses include the following:

A. Such buildings or structures as garages, carports, canopies, porte cocheres, patios, outdoor fireplaces, bath houses and cabanas, doghouses, children's play equipment, greenhouses and similar accessory buildings or structures.

B. Off-street motor vehicle parking and loading areas, as regulated in Section 17.44, provided, that for residential uses not more than one (1) such space shall be provided for a commercial vehicle of more than three (3) tons capacity by the manufacturer's rating.

C. Signs, as regulated in Chapter 17.46 of this Title.

D. Swimming pools, as regulated in Section 17.52.060

E. Amateur radio sending and receiving antennae; provided, that the height thereof including masts shall not exceed seventy-five (75) feet measured from finish lot grade.

F. Management office in multifamily dwelling districts, and other facilities normally associated with tenants' convenience, such as vending machines and washing machines; provided, that there is no exterior display.

G. Fallout shelters, as regulated in Section 17.52.070

H. Residential occupancy within the primary building of no more than two (2) nontransient guests; provided, that at least one (1) off-street parking space shall be supplied for each guest bedroom, and no separate culinary facilities shall be maintained in connection with such accessory use.

I. Residential occupancy by domestic employees employed on the premises.

J. Foster family care where children unrelated to the residents by blood or adoption are cared for.

K. Child care use. Also, child care service. (Ord. No. 56, 1986)

L. Stables and animal pens on residential lots and agricultural lots within and adjacent to urban areas of at least five (5) acres containing a maximum of five animals; provided, that any structures, pens or corrals housing animals shall be two hundred (200) feet from an adjoining property line, except where animals are kept in soundproof air-conditioned buildings, in which case the required setback lines shall be one hundred fifty (150) feet. (Ord. No. 45, §3, 11-2-93)

M. Storage areas, as regulated in applicable Sections of this Title.

N. Private residential garages and carports for the storage of motor vehicles, which are clearly accessory and not for commercial purposes.

O. Storage or parking of recreational vehicles in the open subject to the following conditions:

1. In any zone district, the wheels of any recreational vehicle or any similar transporting device shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal of such types of mobile structures.

2. Recreational vehicles may be stored or parked by the owner thereof behind or alongside the primary building in such a manner that no part of any such vehicle shall project beyond the front or side setback lines of the lot.

3. Not more than two (2) recreational vehicles will be permitted to be parked or stored in the open on residential property at any one (1) time; provided, that one (1) additional such vehicle is permitted for visitation for seven (7) consecutive days and not to exceed fourteen (14) days in any one year, in accordance with Chapter 17.54 of this Title.

4. At no time shall such parked or stored recreational vehicle be occupied or used for living, sleeping or housekeeping purposes, except as provided for visitations in Paragraph (3) of this Subsection.

5. Notwithstanding the provisions of paragraph (1) in this Subsection, recreational vehicles may be parked anywhere on the premises for loading or unloading purposes for not longer than a twenty-four (24) hour period. (Ord. No. 2239, §302.3; Prior Code, §35-299)

P. Television antennas, as regulated in Section 17.52.080 of this Title. (Ord. No. 3126, §1, 2-7-84, Prior Code, §35-299)

### **Section 17.52.050 Garages, Accessory Buildings, and Farm Buildings.**

## COLUMBUS ZONING ORDINANCE

Garages and accessory buildings shall be permitted in all residential zoning districts, in accordance with the standards of this Section:

A. Accessory building area allowed is unlimited as long as the accessory building area does not violate the lot coverage or floor area maximums permitted by the appropriate zoning district and is in accordance with Section 17.52.050 B, & D-F.

B. Attached or detached garages, mini-barns, barns, cabanas, pool houses, etc. are to be counted toward the total accessory building area. Unenclosed structures such as gazebos, picnic shelters, etc. are not to be counted, with the exception of carports. Accessory buildings are not deemed to include doghouses, treehouses and other such incidental buildings.

C. Non-farm parcels in any zoning district are limited to a maximum of two detached accessory buildings. Unenclosed structures, such as gazebos and picnic shelters are excluded, as are incidental buildings like doghouses or treehouses.

D. Farms in the Agricultural Zoning District may have an unlimited number of farm buildings, and these farm buildings do not have any maximum square footage caps.

E. Existing farm buildings which are no longer part of a farm, due to rezoning and/or subdivision, may be retained on a residential lot, in addition to the garage and accessory area to which that residence would otherwise be entitled. Existing farm buildings do not count toward the limit of two detached accessory buildings. (Ord. No. 43, §3, 10-1-91; Prior Code §35-299a; Ord. No. 41, §3, 10-1-96)

### **Section 17.52.060 Swimming Pools.**

For all front setbacks, such setback shall equal the setback outlined below plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Sections 17.42.020 and 17.02.020. (Ord. No. 49, §3, 11-1-94)

A. The following swimming pools shall be permitted accessory uses in accordance with the standards of this Section:

1. Private swimming pools. A private swimming pool shall include all artificially constructed pools which are used in connection with and appurtenant to a one (1) or two (2) family dwelling and available only to the family of the householder or his private guests. Such pool shall be deemed a permitted accessory use.

2. Semiprivate pools. A semiprivate swimming pool shall include all artificially constructed pools which are designed to be used in connection with multi-family dwelling projects or conjunctive groups, such as apartment housing or motels, and available only to such groups and their private guests, but not available to the general public. Such pool shall be deemed a permitted accessory use.

3. General swimming pools. A general swimming pool shall mean an artificial pool of water including all appurtenances to its uses, and used for swimming or recreational bathing by the public.

a. A general swimming pool may be deemed a permitted accessory use to a public park or other similar facility.

b. A general swimming pool may be deemed a special use when it is operated as a primary use.

4. Wading pools. A wading pool shall be constructed as either a portable or permanent water container used for recreational wading purposes which is not over eighteen (18) inches at its deepest point. Any such container with a capacity in excess of one thousand (1,000) gallons of water shall for the purposes of this Title be classified as a swimming pool, and shall be subject to the appropriate regulations pertaining thereto. (Ord. No. 36, §1, 7-1-86)

B. Such pools may be included or count toward open space requirements and do not count as lot coverage.

C. Swimming pools shall be located as follows:

1. A private swimming pool may be constructed within required side or rear setback lines, but not situated closer than ten (10) feet to any adjoining property line. Any deck which is higher than one (1) foot above the average adjoining grade level and adjoins such a pool shall not be closer than twenty (20) feet to any adjoining property line. A private pool may also be constructed within the front yard toward which the main structure is not oriented, in accordance with the above-mentioned setbacks, when such pool is located on a lot with more than one front yard. (Ord. No. 36, 1986, §1, 7-1-86; Ord. No. 17, 1994, §3, 5-9-94)

## COLUMBUS ZONING ORDINANCE

2. A semiprivate swimming pool shall not be constructed closer than fifty (50) feet to any adjoining residential property line.

3. A general swimming pool shall not be constructed closer than two hundred (200) feet to any adjoining residential property line.

D. Swimming pools and related items shall be visually screened as follows:

1. A Type A Buffer as specified in Section 17.43.030 shall be provided and maintained between an in-ground pool and any adjoining property line. (Ord. No. 49, §III, 12-5-95)

2. A Type A Buffer as specified in Section 17.43.030 shall be provided and maintained between an above-ground pool and any adjoining property line. (Ord. No. 49, §III, 12-5-95)

In the case where the area below a raised deck associated with the pool is enclosed, fenced, or screened with landscape materials, a landscape screen may be substituted for the opaque fence.

3. Exposed mechanical equipment appurtenant to either type of pool shall be enclosed, fenced or provided with a Type A Buffer as specified in Section 17.43.030, except that no landscaping is required if a fence or wall is used as a buffer. (Ord. No. 36, 1986, §1, 7-1-86; Ord. No. 49, §III, 12-5-95)

E. Swimming shall be safely used as follows:

1. The pool area shall be enclosed by a substantial fence or other protective barrier which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching lock gate. Such protective barrier may be chain-link or ornamental fence, solid fence or wall or other solid structure including buildings, and shall be not less than five (5) feet in height. In no case shall a driveway penetrate said protective barrier enclosing the pool area. (Ord. No. 36, 1986, §1, 7-1-86)

2. Abandoned pools and unused pools, situated on premises which are not occupied for periods of thirty (30) days or more, shall be drained or equipped with a pool cover adequate to prevent accidents.

3. Contractors shall have the responsibility of properly protecting excavation sites, in the course of construction, so that no undue hazard is created by periods of rainfall or work stoppage.

F. Adequate off-street parking spaces shall be provided, but not less than one (1) space for every twenty (20) square feet of water area that is over thirty-six (36) inches deep for general swimming pools.

G. No pool shall be erected or constructed until adequate drainage measures are evident, adequate distance from overhead electric wires is allowed for and an improvement location permit is obtained therefor. (Ord. No. 2239, §302.4; Prior Code, §35-300)

### **Section 17.52.070    Fallout Shelters.**

For all front setbacks, such setback shall equal the setback outlined below plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Sections 17.42.020 and 17.02.020. (Ord. No. 49, §3, 11-1-94)

A. Fallout shelters shall be a permitted accessory use in accordance with the standards of this Section.

B. A fallout shelter shall not be located closer to any lot line than the minimum required setback line; provided, that any underground shelter or portion thereto may be located within such required setback line when no closer than five (5) feet to any adjoining property line.

1. Such shelter or portion thereof shall be totally below ground level, with no appurtenances, air circulation equipment, vent pipes or other accessory equipment or part thereof projecting above ground level within such required setback line.

2. No shelter entrance shall be located within such minimum required setback lines.

C. No fallout shelter shall be erected or constructed until an improvement location permit is obtained therefor. (Ord. No. 2239, §302.5; Prior Code, §35-301)

### **Section 17.52.080    Television Antennas.**

Television antennas shall be permitted accessory use in accordance with the following standards:

A. In all residential districts, television antennas which are located on the ground shall be located to the rear of the principal building on a lot or to the side of and within three (3) feet of the exterior of the wall of the principal building, but not within the minimum required side or rear yard.

## COLUMBUS ZONING ORDINANCE

B. In all residential districts, a satellite television antenna having a diameter of four (4) feet or less may be located on the principal building or an accessory building on a building lot, subject to the height regulations in Subsection C, below.

C. In all districts, a satellite television antenna shall have a maximum height of twenty (20) feet when located on the ground, and other television antennas located on the ground shall have a maximum height of thirty-five (35) feet. When located on the roof of a building, television antennas shall not exceed the height limitation for the district in which they are located by more than ten (10) feet, or a maximum of forty (40) feet, whichever is higher.

D. In nonresidential districts, television antennas located on the ground shall not be located within any required yard area, and shall be located to the side or rear of the principal building.

E. A television antenna having printed matter on or attached to its surface shall be treated as a sign in accordance with the regulations in Chapter 17.46.

F. All cables and connections from a television antenna to other equipment on the premises exceeding six (6) feet shall be buried underground when an antenna is located on the ground, or appropriately concealed when an antenna is located on the building. (Ord. No. 35, 1986, §1, 6-3-86)

### CHAPTER 17.54 TEMPORARY USES

#### **Section 17.54.010 Purpose.**

Temporary uses shall be permitted in applicable zone districts by the grant of an occupancy permit issued by the Commission in accordance with the requirements of this Chapter. (Ord. No. 2239, §303.1; Prior Code, §35-302)

#### **Section 17.54.020 Duration of Permit; Renewal; Applicability of Regulations of Zone District.**

A. The duration of the temporary period is stated in this Chapter; provided, that renewal of such permit may be requested.

B. Temporary uses shall be subject to all the regulations of the applicable zone district. (Ord. No. 2239, §303.2; Prior Code, §35-303)

#### **Section 17.54.030 Permitted Uses.**

Within any zone district, no temporary use shall be used or arranged or designed to be used except in conformance with the following rules and time limits:

A. [Reserved.]

B. Noncommercial concrete batching plant, both incidental and necessary to construction in the zone district. Maximum use limited to eighteen (18) months.

C. Temporary building or yard for construction materials and equipment, both incidental and necessary to construction in the zone district. Maximum use limited to eighteen (18) months.

D. Parking lot designated for a special event in a zone district. Maximum use limited to thirty (30) days.

E. Bazaars, carnivals, rummage or garage sales and similar temporary uses. Maximum use limited to ten (10) days.

F. Sale of Christmas trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, tent sales. Maximum use limited to sixty (60) days.

G. Parking of recreational vehicles for visitation. Maximum use limited to seven (7) days.

H. Construction trailers as a temporary office during the period of construction and development, in accordance with Section 17.42.150. Maximum use limited to eighteen (18) months.

I. Emergency or temporary parking or stopping of a recreational vehicle is permitted on any street or highway for not longer than twenty-four (24) hours; provided, that such parking or stopping shall be subject to any prohibitions or limitations imposed by the traffic and parking regulations for such street or highway.

## COLUMBUS ZONING ORDINANCE

J. Anything herein to the contrary notwithstanding, a recreational vehicle may be temporarily parked or stored, upon the grant of an occupancy permit, in the open in connection with the following:

1. A public health program sponsored by a public health department.
2. A program sponsored by any unit of government.
3. A carnival or other public affair or function authorized by proper authority.

K. Other similar uses deemed temporary by the Board of Zoning Appeals and attached with such time period, conditions and safeguards as the Board may deem necessary. (Ord. No. 2239, §303.3; Prior Code, §35-304)

### **Section 17.54.040 Standards, Prohibitions and Restrictions Generally.**

A. Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets.

B. No public address systems or other noise producing devices shall be permitted in a residential district.

C. Any floodlights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

D. The lot shall be put in clean conditions devoid of temporary use remnants upon termination of the temporary period. (Ord. No. 2239, §303.4; Prior Code, §35-305)

## **CHAPTER 17.56 HOME-BASED BUSINESSES**

### **Section 17.56.010 Purpose.**

It is the intent of this Section to allow businesses to be operated in residences, provided that where residences are the principal uses of land, the residential and business interests shall be properly balanced to ensure the continued residential character of the property. Home-based businesses are permitted only as accessory uses. The standards established in this Section are intended to do the following: (Ord. No. 2239, §304.1; Prior Code, §35-306)

- A. Ensure that in residential areas, residential uses take precedence over business uses;
- B. Maintain and protect the character of residential neighborhoods;
- C. Ensure that home-based businesses do not detract from the enjoyment of residential property;
- D. Ensure that home-based business do not place demands on public services or infrastructure in excess of those normally associated with the residential use of property;
- E. Ensure that businesses are located in areas where infrastructure and services are sufficient to serve those businesses.

### **Section 17.56.020 General Provisions.**

A home-based business shall be permitted only when said home-based business is clearly subordinate and incidental to the primary use of the premises as a residence.

- A. Permitted home-based businesses shall be subject to all the regulations of the applicable zone district.
- B. Incidental or occasional sales complying with Sec. 17.54.030 (Temporary Uses Permitted) are not considered to be home-based businesses under this section, nor are sales of products through parties in private homes provided that there are no more than five (5) such parties at any residence in any calendar year.

### **Section 17.56.030 Level I Home-Based Businesses**

Home-based businesses meeting all of the criteria in this section shall be considered to be Level I home-based businesses. Level I home-based businesses are exempt from the zoning compliance certificate requirement in Sec. 17-02-130 (Certificates of Zoning Compliance for New, Altered or Nonconforming Uses). The operator of a Level I home-based business who desires a zoning compliance certificate may request the planning department to issue the

## COLUMBUS ZONING ORDINANCE

certificate. When such a certificate is requested, the staff shall make a determination as to whether the business qualifies as a Level I home-based business, and upon finding that the criteria are met shall issue a zoning compliance certificate for the home-based business.

A. The primary use of the property shall be residential, and the operator of the home-based business shall reside in the dwelling unit.

B. The operator of the home-based business shall not employ anyone not residing on the premises.

C. No structural additions, enlargements or exterior alterations to accommodate the home-based business or which change the residential appearance to a business appearance shall be permitted.

D. No more than twenty-five percent (25%) of the floor area of any one (1) story of the dwelling unit shall be devoted to such home-based business.

E. Level I home-based businesses shall be conducted entirely within the residence. Such home occupation shall not be conducted in any accessory building.

F. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home-based business.

G. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway shall be constructed to serve a Level I home-based business. Yard areas shall not be used for parking.

H. No display of goods, signs, or other external evidence of the home occupation shall be permitted.

I. The home-based business shall not generate refuse in excess of the amount normally associated with residential use. Level I home-based businesses shall comply with the general performance standards of Section 17.02.210. (Ord. No. 2239, §304.3; Prior Code, §35-309)

J. There shall be no clients or customers who come to the premises for the purpose of patronizing the home-based business.

K. There shall be no hazardous materials stored or used nor any hazardous conditions created in relation to the home-based business other than those which are customary and usual for the residential use of the property.

L. Any pick-ups or deliveries related to the home-based business shall be carried out in a manner consistent with the residential use of property. There shall be an average of no more than five pick-ups/deliveries per week and no more than two pick-ups/deliveries on any day. Vehicles making such pick-ups and deliveries shall be no larger than a single-unit vehicle and shall have a gross weight of no more than 10,000 pounds.

### **Section 17.56.040 Level II Home-Based Businesses**

Home-based businesses meeting all of the criteria contained in this Section shall be considered to be Level II home-based businesses. Multifamily dwellings are not eligible for Level II home-based businesses. Before a Level II home-based business is initiated, the operator of the business must obtain a zoning compliance certificate as specified in Sec. 17-02-130 (Certificates of Zoning Compliance for New, Altered or Nonconforming Uses). Zoning compliance certificates for Level II home-based businesses must be periodically renewed as specified in Sec. 17.56.060 (Administration and Enforcement).

The staff is authorized to issue a zoning compliance certificate for a home-based business meeting all of the criteria set forth in this section. In making a compliance determination, the staff shall make a site inspection of the subject property and the surrounding area and shall consider the specific location of the property and shall review the criteria in relation to the particular neighborhood or area in which the home-based business is proposed to be located. The standards contained in this section are minimum standards. If after the site inspection the staff finds that these standards are not adequate to ensure that the home-based business is compatible with the general area in which it is to be located or that the home-based business will in any way interfere with the normal enjoyment of other residential properties in the general area, the staff may impose such additional conditions as are necessary to ensure that the home-based business is consistent with the spirit and intent of this ordinance. The staff may require that the operator apply to the Board of Zoning Appeals under Sec. 17.56.050 (Home-based Businesses as Conditional Uses).

## COLUMBUS ZONING ORDINANCE

A. The primary use of the property shall be residential, and the operator of the home-based business shall reside in the dwelling unit.

B. The business shall be conducted in a manner which does not interfere with the normal enjoyment of residential properties in the general area, and it shall not be permitted to create nuisances including but not limited to excessive noise, heat, glare, odors, or traffic nor shall it be permitted to cause undue inconvenience to residents of other properties in the general area.

C. There shall be no traffic associated with the home-based business in excess of that normally associated with residential use of the property.

1. In no case shall the total amount of traffic (including residential and business traffic) generated by the premises containing the home-based business exceed an average twenty (20) trip-ends per day, nor shall it exceed thirty (30) trip-ends on any day. The vehicles associated with these trips shall be of a type customarily and regularly associated with a residence.

2. Any pick-ups or deliveries related to the home-based business shall be carried out in a manner consistent with the residential use of property. There shall be an average of no more than five pick-ups/deliveries per week and no more than two pick-ups/deliveries on any day. Vehicles making such pick-ups and deliveries shall be no larger than a single-unit vehicle and shall have a gross weight of no more than 10,000 pounds.

D. In determining whether this criterion is met, the staff shall consider the type and nature of the neighborhood and streets affected by the home-based business, the volumes of existing and proposed traffic on said streets, and the distribution of existing and proposed traffic on those streets throughout the day and week.

E. There shall be no parking associated with the home-based business in excess of that normally associated with residential use of the property. There shall be no vehicles parked either on-street or off-street which are not otherwise permitted in the zone district. Vehicles kept or parked at the premises shall comply with Sec. 17.42.210 (Parking and Storage of Certain Vehicles) and with Sec. 17.46.070 (Signs Prohibited); they shall not be of a size or type not normally associated with a residence.

1. Any vehicles associated with the home-based business which are parked on the street shall be parked on the same side of the street as the home-based business and shall be parked along the frontage of the premises containing the home-based business, and there shall be no more than three vehicles, including any vehicle used by a non-resident employee and any vehicles used by residents of the premises, parked within 1000 feet of the premises containing the home-based business at any one time, other than vehicles parked in an enclosed garage or a carport.

2. In determining whether this criterion is met, the staff shall consider the width of pavement, the street classification, the availability of on-site and off-site parking for residential purposes, distribution of on-street and off-street parking during the different hours of the day and days of the week, sight distances, neighborhood parking patterns.

3. Parking for residents of the home containing the business or for any contractor or employee shall be off-street, in a driveway, garage, or parking area consistent with that normally associated with the residential use of the property.

F. There shall be no more than one nonresident person engaged on the premises in the operation of the business at any one time.

G. There shall be no more than four clients, customers, or students at the premises at any one time for a purpose associated with the home-based business.

H. If the home-based business is located in an accessory building, such building shall be of a type and size consistent with other accessory buildings in the neighborhood. No accessory building shall be constructed for the purpose of housing a home-based business.

I. A Level II home-based business shall be conducted entirely within enclosed buildings, with the exception of seasonal outdoor instruction such as tennis or swimming lessons for no more than four students at any one time.

J. Exterior lighting shall not shine on neighboring property or otherwise create a nuisance or detract from the enjoyment of neighboring property.

K. Any sign associated with the home-based business shall be consistent with other signs permitted in residential districts, shall be no larger than two square feet in area and shall be affixed flat against the wall. Such

## COLUMBUS ZONING ORDINANCE

sign shall not be illuminated, animated, or flashing, and shall not be a changeable copy sign. All other signs on the premises shall comply with the regulations contained in Sec. 17.46.030 A 11 (Permitted Signs).

L. There shall be no hazardous materials stored or used nor any hazardous conditions created in relation to the home-based business other than those which are customary and usual for residential use of the property.

M. Level II home-based businesses shall comply with the general performance standards of Section 17.02.210 (Performance Standards Generally).

N. If after investigation the staff finds other characteristics of the business, the premises, or the general area which would cause the home-based business to have adverse effects on the reasonable enjoyment of other properties in the area, the staff shall deny the zoning compliance certificate.

### **Section 17.56.050 Home-Based Business as Conditional Uses**

A home-based business which does not qualify as a Level I or Level II home-based business shall be permitted only if the Board of Zoning Appeals allows the business as a conditional use. In determining whether to grant the conditional use, the Board of Zoning Appeals shall make written findings that the home-based business complies with the criteria listed below. In granting a conditional use under this section, the board may impose such conditions or limitations as are necessary to ensure that the use complies with the spirit and intent of this Chapter.

A. The site is adequate to contain the home-based business without detracting from the enjoyment of neighboring properties. In determining whether this criterion is met, the Board shall consider the following:

1. The width, depth, and land area of the subject parcel in relation to other parcels in the general area;
2. The size, setback, height, and exterior appearance of buildings on the subject parcel in relation to those on other parcels in the general area;
3. The number of accessory buildings on the subject parcel in relation to other parcels in the general area;
4. The percentage of the parcel covered by buildings and impervious surfaces in relation to that percentage for other parcels in the general area;
5. The availability of on-site and off-site parking to accommodate the home-based business;
6. Any landscaping, fencing, or yard areas which will be used to buffer the property from neighboring properties;
7. Any other site characteristics the Board deems to have a reasonable relationship to the requested conditional use.

B. The traffic generated by the home based business will not create safety problems nor neighborhood nuisances. In determining whether this criterion is met, the board shall consider the following:

1. The type and volumes of traffic for which the affected streets are designed;
2. The changes in traffic characteristics (including volumes and types of vehicles) which would be attributable to the home-based business;
3. Sight distance for traffic entering or leaving the subject property;
4. Visibility of the subject site for drivers;
5. Condition of the affected streets, including pavement condition and width;
6. Emergency vehicle access to the subject site, including the ease of finding the premises or buildings;
7. The design of the affected streets in relation to the land uses and traffic in the area, including traffic control devices and traffic calming measures;
8. Any other traffic characteristics the Board deems to have a reasonable relationship to the requested conditional use.

C. The home-based business will be compatible with and not adversely affect the neighborhood or general area in which it is to be located. In determining whether this criterion is met, the board shall consider the following:

1. The land uses and zoning classifications in the general area;
2. The number of persons employed at the home-based business and the effect of the presence of those employees on the enjoyment and value of other properties in the general area;
3. Any hazardous or potentially hazardous materials or conditions related to the home-based business and any actions to mitigate those hazards;

## COLUMBUS ZONING ORDINANCE

4. Any external evidence (lighting, noise, heat, vibration, odors, air pollutants, runoff, etc.) of the home-based business and the effect of that evidence on the enjoyment and value of other properties in the general area;
  5. Any signs proposed in relation to the home-based business and the effect of those signs on the enjoyment and value of other properties in the general area;
  6. Any interior or exterior changes to existing structures and grounds or any new structures proposed to accommodate the home-based business and the effects of those changes on the enjoyment and value of other properties in the general area;
  7. The frequency of deliveries of products or supplies to the premises and the types of vehicles used for deliveries;
  8. The condition and maintenance of buildings and grounds on the subject property in relation to that on other parcels in the general area;
  9. The days, hours and duration of operation;
  10. The potential for growth of the home-based business;
  11. The demand or potential demand for public services in relation to those utilized by residences;
  12. Any other characteristics the Board deems to have a reasonable relationship to the requested conditional use.
- D. Notwithstanding the above criteria, if the Board finds that the public need for the proposed home-based business overrides all other considerations, the Board may approve the conditional use.

### **Section 17.56.060 Administration and Enforcement**

A. The owner or operator of a proposed home-based business, other than a Level I home-based business, shall apply for a Certificate of Zoning Compliance. If the operator of the home-based business is not the owner of the property proposed to contain the home-based business, both the owner and operator must sign the application. The staff shall determine whether the operation qualifies as a Level I or Level II home-based business. If the operation does not qualify as a Level I or Level II home-based business, the operation is permitted only if the Board of Zoning Appeals approves it as a conditional use. The initial certificate for a Level II home-based business is valid for one year, and subsequent certificates are valid for three years. The operator of a Level II home-based business must apply for a renewal in order to continue to operate the home-based business. The applicant must certify that the home-based business continues to comply with this ordinance and with all conditions of approval.

B. The applicant has the burden of proof that a proposed home-based business meets all required criteria. The applicant shall provide evidence sufficient for the staff to make a determination as to compliance with the required standards.

C. Issuance of a zoning compliance certificate does not ensure compliance with other regulations, including but not limited to building, plumbing and electrical codes, fire codes, accessibility codes, business licensing, or private covenants. The operator of the home-based business is responsible for obtaining all required permits and licenses.

D. A zoning compliance certificate issued in accordance with this section shall remain valid only so long as the home-based business continues to operate in compliance with the applicable standards.

E. The staff may revoke a zoning compliance certificate for a home-based business if the business is found to be in violation of this Chapter or if the operator of the home-based business fails to comply with any condition or limitation placed upon such certificate by the staff or by the Board. Before revoking the zoning compliance certificate, the staff shall notify the operator of the violation and provide a reasonable period of time to correct the violation. Such period of time shall be appropriate to the correction needed, but in no case shall the time allowed be less than three days nor more than 10 days.

F. The operator of a home-based business may appeal the denial or revocation of a zoning compliance certificate to the Board of Zoning Appeals. Such appeal shall be considered as an administrative appeal as specified in Sec. 17.61.050 (Appeals of Administrative Decisions).

G. Any interested party, as defined in the Plan Commission Rules of Procedure, may appeal the staff's approval of a zoning compliance certificate to the Board of Zoning Appeals. Such appeal shall be considered as an

## COLUMBUS ZONING ORDINANCE

administrative appeal as specified in Sec. 17.61.050 (Appeals of Administrative Decisions).(Ord. No. 98-15, §III, 5-6-98)

### **CHAPTER 17.58 RESERVED**

(Ord. No 14, §3, 3-21-95)

### **CHAPTER 17.60 NONCONFORMING USES**

#### **Section 17.60.010 Intention.**

A. Within the districts established by this Title or amendments that may be hereafter adopted there exist lots, uses of land, structures, uses of structures and land and characteristics of use which were lawful before this Title was approved or amended, but which would be prohibited, regulated or restricted under the terms of this Title or future amendment. It is the intent of this Title to permit such lawfully established nonconformities to continue although the same does not conform to all of the provisions of this Title, but also recognize that a basic policy of zoning is their gradual elimination. It is further the intent of this Title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. Nonconforming uses are declared by this Title to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Title by attachment on a building or premises or additional nonconforming signs, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

C. To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date (8-30-71) of adoption or amendment of this Title and upon which actual building construction has been carried on diligently; provided, that such building construction shall be diligently pursued to completion within three (3) years from the effective date of adoption or amendment of this Title.

1. Actual construction is hereby defined to include the erection of construction materials in permanent position and fastened in a permanent manner.

2. Where excavation or demolition or removal of an existing lawfully established building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction; provided, that work shall be carried on diligently.

D. Notwithstanding other provisions of this Section, a lawfully established residential use rendered nonconforming by adoption of this Title or future amendment may be enlarged, altered or reconstructed; provided, that:

1. Such residential use shall comply with Section 17.60.020

2. This provision shall not be construed to include more than one (1) use on a lot, and shall be applicable so long as such use remains otherwise lawful. (Ord. No. 2239, §205.1; Prior Code, §35-313; Ord. No. 45, §3, 10-1-91)

#### **Section 17.60.020 Nonconforming Lots of Record.**

A. In any district in which a principal use is permitted, a principal use and customary accessory uses may be erected on any single lot of record at the effective date of adoption or amendment of this Title, notwithstanding limitations imposed by other provisions of this Title; provided, that such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

## COLUMBUS ZONING ORDINANCE

B. The provision of Subsection A of this Section shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that setback dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of setback requirements shall be obtained only through action of the Board of Zoning Appeals.

C. No division of land shall be made after the effective date of this ordinance which creates a lot with width or area below the requirements stated in this Title. (Ord. No. 45, §3, 10-1-91)

### **Section 17.60.030 Nonconforming Structures.**

Where a lawful structure exists at the effective date (8-30-71) of adoption or amendment of this Title that could not be built under the terms of this Title by reason of restrictions on area, lot coverage, height, setback lines, intensity, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

B. Should such nonconforming structure or nonconforming portion of a structure be destroyed, by any means, to an extent in real value of more than seventy-five (75%) percent of its true value in accordance with the latest tax assessment rules at the time of such destruction, it shall not be reconstructed except in conformity with the provisions of this Title.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. (Ord. No. 45, §3, 10-1-91)

### **Section 17.60.040 Nonconforming Uses of Structure, Land, or Structures and Land in Combination.**

If lawful use involving individual structures, land, or of structures and land in combination, exists at the effective date (8-30-71) of adoption or amendment of this Title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions: (Ord. No. 24, §3, 6-7-94)

A. No existing structure devoted to a use not permitted by this Title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Title, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure or structure and land in combination may be changed to another nonconforming use, provided that the zoning administrator shall make specific findings that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The determination of the zoning administrator may be referred by the applicant or the staff to the Board of Zoning Appeals which may make the findings and deem the use to be a conditional use to the terms of this ordinance. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of Section 17.61.090.

D. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations of the district, and the nonconforming use may not thereafter be resumed.

E. When a nonconforming use of a structure, land, or a structure and land in combination is discontinued or abandoned for twelve (12) consecutive months, as provided in Subsection J or when governmental action impedes access to the premises, the structure, land, or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located. (Ord. No. 24, §3, 6-7-94)

F. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this Subsection is defined as damage to an extent in real value of more than seventy-five percent (75%) of its true value in accordance with the latest tax assessment rules at the time of destruction.

## COLUMBUS ZONING ORDINANCE

G. Any nonconforming use of a structure which has not been abandoned, destroyed, expanded, or damaged to the extent described above, shall continue to be legally nonconforming even though it fails to comply with the development standards of this Title, including landscaping, parking, setbacks, or other site conditions. The occupancy of such nonconforming structure may be changed without jeopardizing its legal nonconforming status, except that if the new use requires more parking or loading area than the previous use, such new use shall comply with the requirements of Section 17.44.020, unless a variance from the development standards is granted by the Board of Zoning Appeals in accordance with this Title. (Ord. No. 49, §III, 12-5-95)

H. Notwithstanding Subsection G, any legally nonconforming lot which was zoned for nonresidential purposes on the effective date (8-30-71) of this Title shall not be required to conform to the transitional setback distance for the district in which it is located, provided that a buffer as specified in Section 17.43.030 is established between such use and any abutting residentially zoned property. (Ord. No. 49, §III, 12-5-95)

I. Notwithstanding any other provisions of this Title, a legally nonconforming structure may be expanded, on a one-time-only basis, in an amount not to exceed 15% of the floor area without the installation of landscaping required by Chapter 17.42. Also notwithstanding any other provisions of this Title, a legally nonconforming parking area may be expanded, on a one-time-only basis, in an amount not to exceed 15 parking spaces or 15%, whichever is less, without the installation of landscaping required by Chapter 17.43. (Ord. No. 49, §III, 12-5-95)

J. Whenever a nonconforming use of a structure or a nonconforming structure is expanded or changed in such a manner as to require landscaping, such landscaping shall be installed before a certificate of occupancy is issued, unless a financial guarantee is posted under the terms of Section 17.43.070 of this Title. (Ord. No. 45, §3, 10-1-91; Ord. No. 49, §III, 12-5-95)

K. A parcel of land may be used for a seasonal gleaning operation, in which animals are kept on a parcel of land in order to remove crop residue, or a periodic grazing operation in conjunction with a crop rotation program, at least one out of every three years. If no animals are kept on the property under the terms of this Section for three consecutive years, such operation is considered to be discontinued or abandoned, and it cannot be re-instituted without a conditional use under Section 17.61.070 D. (Ord. No. 24, §3, 6-7-94)

L. Mobile home parks developed before March 5, 1995 are not subject to the standards contained in this ordinance. Such mobile home parks shall conform to the standards in effect at the time of approval of the park. Any additions not included in the original plans for such parks shall comply with the terms of this ordinance. (Ord. No. 14, 1995, §3, 3-5-95)

### **Section 17.60.050 Repairs and Maintenance.**

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of walls, fixtures, heating, wiring or plumbing; provided, that the cubic content existing when it became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use become physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt after six (6) months of such declaration except in conformity with the regulations of the district in which it is located.

C. Nothing in this Title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Ord. No. 45, §3, 10-1-91)

### **Section 17.60.060 Uses Under Conditional Use Provisions Not Nonconforming Uses.**

A. Any use which is permitted as a conditional use in a district under the terms of this Title (other than a change through Board of Zoning Appeals action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

B. Any use existing at the time of adoption (8-30-71) or amendment of this Title which is permitted as a conditional use in a district under the terms of this Title and is deemed a conforming use may without Board of

## COLUMBUS ZONING ORDINANCE

Zoning Appeals action be enlarged, extended or increased subject to the standards of the zone district. (Ord. No. 2239, §205.7; Prior Code, §35-320)

### CHAPTER 17.61 BOARD OF ZONING APPEALS<sup>3</sup>

#### **Section 17.61.010 Establishment; Composition; Appointments.**

A Board of Zoning Appeals is established, which shall consist of five (5) members representing the City of Columbus and land within its extraterritorial jurisdiction as follows:

A. Three (3) citizen members appointed by the Mayor, of whom one (1) shall be a member of the Plan Commission and two (2) shall not be members of the Plan Commission.

B. One (1) citizen member, appointed by the Common Council, who shall not be a member of the Plan Commission.

C. One (1) citizen member appointed by the Plan Commission, other than the Plan Commission member appointed by the Mayor, who shall be one (1) of the two (2) members of the Plan Commission who were appointed to represent the unincorporated area over which extraterritorial jurisdiction is exercised.

Other than the two (2) Plan Commission members, no member of the Board may hold other elective or appointive office in municipal, county, or state government. (Ord. No. 3120, §1, 1-3-84; Prior Code §35-322)

#### **Section 17.61.020 Organization.**

A. Terms of members. The Board of Zoning Appeals heretofore established is continued and reestablished, and the terms of present members shall continue until the expiration thereof. As the terms of members expire, new appointments shall be made in the following order:

1. The member appointed by the Circuit Court Judge shall not be replaced;

2. The Plan Commission shall appoint one (1) of its citizen members from the area within the Commission's extraterritorial jurisdiction, to the lesser of a term of four (4) years or the duration of that person's term as a Plan Commission member;

3. The Mayor shall appoint a citizen member of the Plan Commission to the lesser of a term of four (4) years or the duration of that person's term as a Plan Commission member;

4. The Common Council shall appoint a citizen of the City of Columbus to a term of four (4) years.

5. The Mayor shall appoint a citizen of the City of Columbus to a term of four (4) years;

6. The Mayor shall appoint a citizen of the City of Columbus to a term of four (4) years.

B. Expiration date of terms. The term of each member expires on the first Monday of January of the fourth year after the year of the member's appointment.

C. Alternate members.

1. The Mayor, Common Council, and Plan Commission each shall appoint an alternate member to the Board of Zoning Appeals, for a total of three (3) alternate members.

2. Alternate members shall have all of the rights and privileges of members of the Board of Zoning Appeals and may participate in the discussion and evaluation of petitions before the Board.

3. An alternate member shall serve as a voting member of the Board of Zoning Appeals and may be entitled to vote when a regular member, appointed by the same appointing authority (Mayor, Common Council, and Plan Commission) as the alternate member, abstains or disqualifies himself from participating in consideration of a matter before the Board.

4. The alternate member appointed by the Plan Commission shall be a citizen member of the Plan Commission who resides in the land area within the Commission's extraterritorial jurisdiction.

D. Conflict of interest. A member of the Board of Zoning Appeals shall not participate in a hearing or decision of the Board concerning a zoning matter in which he has a direct or indirect financial interest. In such an instance the Board shall enter in its records:

1. the fact that a regular member has such a disqualification; and

## COLUMBUS ZONING ORDINANCE

2. the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

E. Removal of a member. The appointing authority (Mayor, Common Council, or Plan Commission) may remove a member from the Board of Zoning Appeals for cause. The appointing authority shall mail notice of the removal, along with written reason for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of the County. (Ord. No. 3120, §1, 1-3-84)

### **Section 17.61.030 Promulgation of Rules; Time for Decisions; Reconsideration after Rejection of Application; Minutes; Records.**

A. The Board of Zoning Appeals shall adopt rules of procedure concerning the filing of appeals, applications for variances, and conditional uses, giving of notice, conduct of hearings and other such matters as may be necessary to carry out their duties under the Sections of this Title. At the first meeting of each year, the Board shall elect a Chairman and Vice-Chairman from among its members.

B. Public notice of hearings before the board in accordance with IC 5-3-1-2 and IC 5-3-1-4 and notice to interested parties shall be given at least ten (10) days before the date set for the hearing. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice. The party taking the appeal or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties.

C. The staff may appear before the Board at the hearing and present evidence relevant to the effect on the Comprehensive Plan or Zoning Ordinance of the granting of a variance or the determination of any other matter. (Ord. No. 3, §4, 2-4-92)

D. The Board of Zoning Appeals shall make a decision on any matter that it is required to hear either at the meeting at which the matter is first presented, or at the conclusion of the hearing on that matter, if it is continued. Within five (5) days of making a decision, the Board shall file a written copy of its decision in the office of the Board.

E. An affirmative vote by a majority of the Board of Zoning Appeals shall be required to approve or deny a petition before the Board.

F. Any petition approved by the Board of Zoning Appeals, unless otherwise stipulated, shall expire and become void one (1) year after the date of its granting unless the petitioner or his agent has substantially put into effect the use on the property for which the petition was approved. Within ninety (90) days of approval of a petition the petitioner shall apply for an improvement location permit. (Ord. No. 17, §3, 4-2-91)

G. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings and record the specifics of each vote on all actions taken. All minutes and records shall be filed in the offices of the Board and shall be a public record. (Ord. No. 3120, §1, 1-3-84)

### **Section 17.61.040 Stays Pending Appeals.**

A. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official or body from whom the appeal is taken certifies to the Board after the notice of appeal is filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Board of Zoning Appeals or by the County Circuit or Superior Court, and such notice shall be given to the administrative official or body from whom the appeal is taken and the owner of the premises affected and on due cause shown.

B. After the person in charge of the work on the premises affected has received notice that an appeal has been filed with the Board of Zoning Appeals, the designated administrative official shall have full power to order such work discontinued or stayed, and to call upon the police power of the City to give full force and effect to the order. (Ord. No. 2239, §502.3; Prior Code, §35-325)

### **Section 17.61.050 Appeals of Administrative Decisions.**

## COLUMBUS ZONING ORDINANCE

A. The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is error in any of the requirements, decision or determination made by an administrative official or body charged with the administration and enforcement of this Title.

B. An appeal concerning interpretation or administration of this Title may be taken by any person aggrieved by any decision of the administrative official or body charged with the administration and enforcement of this Title.

C. An appeal shall specify the ground thereof and shall be filed within thirty (30) days of the decision alleged to be in error. The administrative official or body from whom the appeal is taken shall forthwith transmit to the Board all documents, plans and papers constituting the record of the action from which the appeal is taken. (Ord. No. 2239, §503.1; Prior Code, §35-326)

### **Section 17.61.060 Conditional Use.**

A. The Board of Zoning Appeals shall hear and decide only such conditional uses as the Board is specifically authorized to act on by the Sections of this Title; to decide such questions as are involved in determining whether conditional uses should be granted and to grant conditional uses with such conditions and safeguards as are appropriate under this Title, or to deny conditional uses when incompatible with the purpose and intent of this Title.

B. A conditional use shall not be granted by the Board unless and until the following occur:

1. An application for conditional use is submitted indicating the Section of this Title under which the conditional use is sought and stating the grounds on which it is requested.

2. Notice is given to parties in interest and a public hearing is held in accordance with this Title.

3. The Board shall make findings that it is empowered under the Section of this Title described in the application to grant the conditional use, and that the granting of the conditional use will substantially serve the public convenience and welfare and will not substantially or permanently injure the appropriate use of the neighboring property.

C. Before any conditional use shall be issued, the Board shall make written findings certifying compliance with the specific regulations governing individual conditional uses, and that satisfactory provision and arrangement has been made concerning the following, where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

2. Off-street parking and loading areas, with particular attention to the items in Subsection C 1 of this Section, and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district.

3. Refuse and service areas, with particular reference to the items in Subsection 1 and 2 in this Section.

4. Utilities, with reference to locations, availability and compatibility.

5. Landscaping and buffering. (Ord. No. 49, §III, 12-5-95)

6. Signs and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.

7. Required setback distances, yards and other open space.

8. General compatibility with adjoining properties, with reference to site development standards designed for their mutual protection and the environmental harmony of the district. (Ord. No. 2239, §503.2; Prior Code, §35-327)

### **Section 17.61.070 Development Standards for Conditional Uses.**

A. Bed and breakfast use: The following standards must be met without variance before the Board of Zoning Appeals may authorize, by conditional use, the bed and breakfast use in the R-6 or AG district: (Ord. No. 2, §3, 1-3-95)

1. The residence shall be occupied as a residence by at least one of the bed and breakfast staff, but not necessarily the property owner. (Ord. No. 2, §3, 1-3-95)

2. The bed and breakfast use shall be confined to the principal residential structure, and other existing structures which can be successfully converted to bed and breakfast units. (Ord. No. 2, §3, 1-3-95)

## COLUMBUS ZONING ORDINANCE

3. No exterior alterations to the structure shall be made which would change the residential appearance of it.
4. The minimum total floor area of the principal residential structure needed to establish a bed and breakfast use shall be 1,500 square feet. Each bed and breakfast unit in excess of one (1) shall require an additional 500 square feet of total floor area.
5. Two off-street parking spaces shall be provided for the residential occupants. One (1) additional off-street parking space shall be provided for each bed and breakfast unit established; landscaping and/or buffering may be required. Parking requirements may be reduced if the Board of Zoning Appeals finds that reducing off-street parking will not detract from the residential character of the neighborhood, and other parking is available in the immediate area. (Ord. No. 2, §3, 1-3-95; Ord. No. 49, §III, 12-5-95)
6. Dining and other facilities shall not be open to the public but shall be exclusively for the use of the residents and registered bed and breakfast guests, unless the Board of Zoning Appeals finds that opening the facilities to the public will not have a negative impact on the surrounding area. The Board may set any additional regulations necessary to ensure that public use of the facilities will be in harmony with the surrounding area. (Ord. No. 2, §3, 1-3-95)
7. There shall be no more than the equivalent of one nonresident full-time employee hired solely for the purpose of working for the bed and breakfast use. However, if the dining and/or other facilities are open to the public, the Board may allow additional employees. In addition, the Board may allow additional employees for other reasons that are peculiar to the property (size, location) as long as the addition of more employees will not detract from the residential character of the neighborhood. (Ord. No. 2, §3, 1-3-95)
8. The applicant is responsible for obtaining all inspections, permits, licenses, etc. as may be required by law.
9. The applicant is responsible for determining the effect, if any, of the bed and breakfast use upon any subdivision restrictions, deed covenants, etc. that may encumber his/her property.
10. The Board must determine that the bed and breakfast use will be compatible with the neighborhood, and will not interfere with the reasonable enjoyment of adjoining properties. (Ord. No. 19, 4-2-85)
- B. Adult care home: The following standards must be met without variance before the Board of Zoning Appeals may authorize, by conditional use, the establishment of a home day care use in a residential zoning district:
  1. At least one of the individuals providing the care shall be a resident of the property.
  2. The minimum lot area shall be the minimum size required for the zoning district in which the use is located, unless the lot is legally non-conforming in size.
  3. There shall be at least 50 square feet of usable indoor space per adult within the principal structure, exclusive of halls, bathrooms or kitchen areas and basements without a direct exit to the outside. (Ord. No. 14, 1999, §3, 5-18-99)
  4. The Board must determine that the home day care use will be compatible with the neighborhood and will not interfere with the reasonable enjoyment of adjoining properties. (Ord. No. 56, 1986, 1-7-86)
  5. Each Adult care home must be licensed by the State of Indiana Division of Family and Children through the Bartholomew County Office for the Division of Family and Children.
  6. The Adult care home may not be operated in such a way as to become a nuisance to the surrounding neighborhood.
  7. If at any time an Adult care home provider is found to be operating in violation of the above standards, or any other particular conditions of approval, the zoning administrator shall notify the provider that their conditional use is no longer valid. If the provider wishes to continue operating an Adult care home, a new conditional use must be obtained from the board. (Ord. No. 12, §3, 3-3-92)
- C. Engineering or research laboratories: The following standards must be met without variance before the board of zoning appeals may authorize, by conditional use, the engineering or research laboratory use in the B-4 or B-5 District:
  1. Facilities shall not be open to the public, but shall be exclusively for the use of those employed in the engineering or research laboratory.
  2. For purposes of establishing required parking, this use is classified as a "commercial, manufacturing and industrial establishment(s) not catering to the retail trade."

## COLUMBUS ZONING ORDINANCE

3. The engineering or research laboratories operation shall be performed entirely within the confines of the building(s). No outside testing or storage of materials is permitted.

4. The Board must determine that the engineering or research laboratory will be compatible with the area, and will not interfere with the reasonable use of adjoining properties.

D. Farm animals or confined feeding operations: The provisions of Section 17.61.060 C do not apply to farm animals or concentrated feeding operations. Instead, the standards listed below must be met before the Board of Zoning Appeals may grant a conditional use for such use. Any such use which does not comply with these standards may be permitted by the Board only through the variance process in Section 17.61.080 of this ordinance. Before deciding a conditional use under this Section, the Board shall seek information relevant to the decision from agencies related to the agricultural operation. Any confined feeding operation which is regulated by Indiana Law must meet all state regulations. The Board may impose conditions which are more restrictive than the state regulations. When the Board approves a conditional use for one of these uses, it may require conditions or commitments to ensure that the conditional use is consistent with the spirit and intent of this ordinance.

1. The setbacks associated with the raising of farm animals or confined feeding operations initiated after November 2, 1993, shall be designed to protect the existing and proposed residential and/or commercial uses from the noises and odors which accompany the raising of farm animals or confined feeding operation. Minimum setbacks for the raising of farm animals shall be as follows:

a. For confined feeding operations, all operations shall be located at least fifty (50) feet from any property line and at least five hundred (500) feet from any neighboring residence, commercial or industrial building, or any other building which is used as a place of employment or is frequented by the public, unless the Board finds that a lesser setback is sufficient for the operation.

b. For the keeping of animals other than in a confined feeding operation, all structures associated with the animals, including but not limited to barns, pens, or sheds, shall be located at least fifty (50) feet from any property line and at least two hundred (200) feet from any neighboring residence, commercial or industrial building, or any other building which is used as a place of employment or is frequented by the public unless the Board finds that a lesser setback is sufficient for the operation.

For all front setbacks, such setback shall equal the setback outlined above plus one-half of the right-of-way established by the Thoroughfare Plan. All front setbacks shall be measured from the centerline of an adjoining street in accordance with Sections 17.42.020 and 17.02.020. (Ord. No. 49, §3, 11-1-94)

2. Waste material handling (liquid and solid), storage, and spreading must be managed in a manner that is in accordance with sound management practices.

3. The number of animals must not exceed the reasonable carrying capacity of the land.

4. Adequate fencing and/or landscaping of the operation must be provided.

5. The Board must determine that the raising of farm animals or the establishment of a confined feeding operation is compatible with the general area and does not unreasonably interfere with the enjoyment of other properties in the area. In making this determination, the Board shall consider the character of the general area, historical land uses and development patterns, and the trend of development in the area. (Ord. No. 24, §3, 6-7-94)

E. Model Home use: The following standards shall be met without variance before the Board of Zoning Appeals may authorize, by conditional use, the model home use in a residential zoning district:

1. The model home shall not be used for sale of any off-site product or service.

2. The model home shall not be used or occupied as a residence at any time during the period within which the conditional use permit is in effect.

3. Upon the termination of the conditional use permit, or termination of actual use as a model home, whichever comes first, the owner shall remove or cause to be removed all temporary parking, lighting, signage, fencing, and other site improvements of a non-residential nature, within 30 days from the date of termination.

### **Section 17.61.080 Variances<sup>4</sup>**

A. The Board of Zoning Appeals shall hear and authorize upon appeal in specific cases a variance of use or a variance from the development standards (such as height, bulk, or area) in accordance with the criteria established in Subsection B, below.

## COLUMBUS ZONING ORDINANCE

B. A variance from the terms of this ordinance shall not be granted by the Board unless and until:

1. An application for variance is submitted indicating whether the request is for a variance of use or a variance from the development standards, and noting the specific terms of this ordinance from which the variance is sought, and demonstrating:

a. For a variance of use that:

- i. The approval will not be injurious to the public health, safety, and general welfare of the community;
- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- iii. The need for the variance arises from some condition peculiar to the property involved;
- iv. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- v. The approval does not interfere substantially with the Master Plan.

b. For a variance from the development standards that:

- i. The approval will not be injurious to the public health, safety, and general welfare of the community;
- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- iii. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property; and
- iv. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.

2. All such conditions and commitments as deemed necessary in the public interest may be required by the Board. Such conditions and commitments shall be subject to the requirements of Section 17.61.090.

3. Notice is given to parties in interest in accordance with Section 17.61.030.

4. The Board shall make written findings of fact that all of the requirements of Subsection B 1 of this Section have been met by the applicant for a variance.

5. The Board shall make written findings of fact that the granting of the variance will be in harmony with the general spirit, purpose, and intent of this Title, and in the interest of determining substantial justice done. (Ord. No. 3120, §1, 1-3-84; Prior Code §35-328)

### **Section 17.61.090 Administrative Powers; Imposition of Conditions and Commitments.**

A. In exercising the powers it has, the Board of Zoning Appeals may, so long as such action is in conformity with the Sections of this Title, including Chapter 17.54, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirements, decision or determination as in its opinion ought to be made, and to that end shall have the powers of the administrative official or body from whom the appeal is taken.

B. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant on any matter upon which it is required to pass under this Title, or to effect any variation in the application of this Title.

C. Whenever the decision of the Board is conditioned upon the petitioner's compliance with a requirement imposed by the Board concerning construction or site development (e.g., installation of landscaping, fencing, paving, curb stops or any comparable requirement) and such condition is recited in the notice to the petitioner of the Board's decision, petitioner shall be required to notify the staff in writing of the timely fulfillment of such requirement. If the time for fulfillment of the condition is stated in the Board's decision, the written notification must be received within ninety (90) days after the commencement of the use or completion of construction authorized by the Board's decision, whichever is earlier. (Ord. No. 18, §3, 4-2-91)

Failure to comply with any conditions imposed by the Board of Zoning Appeals shall constitute a violation enforceable by governmental authority pursuant to the provisions of Section 17.02.230.

D. If deemed advisable, the Board may require or permit the petitioner to make written commitments concerning the use or development of the subject property. The commitments shall be reduced to writing in

## COLUMBUS ZONING ORDINANCE

recordable form and signed by the owner(s) of the real estate. The commitments shall authorize their recording by the Administrative Official in the office of the Recorder of Bartholomew County, Indiana, upon the grant of the variance or conditional use petition by the Board of Zoning Appeals. Following the recording of the commitments, the Administrative Official shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

The Board may require in such commitment the designation of any specially affected persons or categories of specially affected persons, who (in addition to persons entitled to receive notice of the hearing under Section 17.61.030) shall be entitled to enforcement thereof pursuant to Section 17.02.230 of this Title.

The commitments may be modified or terminated by a decision of the Board of Zoning Appeals made at public hearing after proper notice has been given. Any modification or termination of the commitments approved by the Board shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, endorsed by the Board, and recorded in the office of the Recorder of Bartholomew County, Indiana. (Ord. No. 3120, §1, 1-3-84)

### **Section 17.61.100 Appeal on Writ of Certiorari.**

Any person aggrieved by any decision of the Board of Zoning Appeals may seek court review by certiorari procedure. A petition for certiorari shall specify the grounds upon which the petition alleges the illegality of the Board's action and must be filed in Circuit or Superior Court of the County within thirty (30) days after the date of such decision. (Ord. No. 2239, §504; Prior Code, §35-330)

## **CHAPTER 17.62 FLOODPLAIN REGULATIONS**

### **Section 17.62.010 Statement of Purpose.**

The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the City Council adopts the following floodplain management regulations in order to accomplish the following:

- A. to prevent unwise developments from increasing flood or drainage hazards to others;
- B. to protect new buildings and major improvements to buildings from flood damage;
- C. to protect human life and health from the hazards of flooding;
- D. to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- E. to maintain property values and a stable tax base by minimizing the potential for creating flood-blighted areas; and
- F. to make federally subsidized flood insurance available for property in the city by fulfilling the requirements of the National Flood Insurance Program.

### **Section 17.62.020 Flood Hazard Areas Described.**

A. Zone A: The Zone A is intended to guide development in areas where detailed flood information has not been provided. These areas are determined as approximate one-hundred (100) year flood areas on the Flood Insurance Rate Map. These areas are also shown as zone A on the rate map. These unnumbered "A" zones are distinct from the "AE" Zones shown on the FIRM. The identification of these areas is made by the Federal Insurance Administration. A determination of the 100-year flood level and the delineation of the floodway and floodway fringe must be made by IDNR prior to any excavation, deposit, or erection of any structure or obstruction. (Ord. No. 28, 1995, §3, 6-20-95)

B. Floodway: The floodway is the area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than a designated height. The identification of

## COLUMBUS ZONING ORDINANCE

these areas is made by the Federal Insurance Administration; however, all such identifications shall be made in compliance with the current rules, procedures and policies of IDNR. IDNR exercises primary jurisdiction in the floodway under the provisions of IC 14-28-1, the Flood Control Act, however, the Plan Commission may impose terms and conditions on any project or plat it reviews in this flood hazard area which are more restrictive than those imposed by IDNR. (Ord. No. 28, 1995, §3, 6-20-95; Ord. No. 31, §3, 11-17-98)

C. Floodway Fringe and 500-year flood: The floodway fringe and 500-year flood hazard areas are intended to guide development in areas subject to potential flood damage, but outside an identified floodway. The identification of these areas is made by Federal Insurance Administration. The principal requirement of this flood hazard area is that the flood protection grade of all buildings shall be at least two (2) feet above the regulatory flood profile. (Ord. No 3025, §1; Prior Code, §35-333; Ord. No. 28, 1995, §3, 6-20-95)

### **Section 17.62.030 Duties of the Staff**

The staff for the City is appointed to review all development and subdivision proposals to insure compliance with this ordinance, including but not limited to the following duties:

A. Ensure that all development activities within the SFHAs of the jurisdiction of the City meet the requirements of this ordinance.

B. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.

C. Ensure that construction authorization has been granted by IDNR for all development projects subject to Section 17.62.070 (Preventing Increased Damage) of this ordinance, and maintain a record of such authorization (either a copy of actual permit or letter of recommendation). (Ord. No. 28, 1995, §3, 6-20-95)

D. Maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA, before, during, and after construction. (Ord. No. 31, §3, 11-17-98)

E. Maintain a record of the engineer's certificate and the "as built" flood proofed elevation of all buildings subject to Section 17.6.080 (Protecting Buildings) of this Ordinance.

F. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.

G. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of IDNR permits and letters of recommendation, federal permit documents, and "as built" elevation and flood proofing data for all buildings constructed subject to this ordinance. (Ord. No. 3025, §1; Ord. No. 31, §3, 11-17-98; Prior Code, §35-334)

H. Notify adjacent communities and the State Coordinating Office prior to any alteration of relocation of a watercourse, and submit copies of such notifications to FEMA. (Ord. No. 31, §3, 11-17-98)

### **Section 17.62.040 Regulatory Flood Elevation.**

This Chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to IDNR for review and approval. (Ord. No. 28, 1995, §3, 6-20-95)

A. The regulatory flood elevation and floodway limits for the SFHAs of rivers and creeks within the extraterritorial jurisdiction of the City of Columbus and its extraterritorial jurisdiction shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the City dated January 5, 1996 and corresponding Flood Insurance Rate Map dated February 19, 1997, by the Federal Emergency Management Agency. (Ord. No. 52, §III, 12-19-95; Ord. No. 31, §3, 11-17-98)

B. The regulatory Flood Elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the flood insurance rate map of the city.

## COLUMBUS ZONING ORDINANCE

C. The regulatory flood elevation for each of the remaining SFHA's delineated as an "A" zone on the Flood Insurance Rate Map of the City shall be according to the best data available as provided by IDNR. (Ord. No. 28, 1995, §3, 6-20-95)

D. In the event that the Columbus City Plan Commission extends the city's extraterritorial jurisdiction, the regulatory flood elevation for the SFHAs of those areas not shown on the Flood Insurance Rate Map for the City of Columbus shall be those delineated on the 100-year flood profiles in the Flood Insurance Study of Bartholomew County dated September 15, 1981 and corresponding Flood Insurance Rate Map dated March 15, 1982 and prepared by the Federal Emergency Management Agency. (Ord. No. 52, §III, 12-19-95; Ord. No. 31, §3, 11-17-98)

If the SFHA is delineated as "AH Zone" or "AO Zone," the elevation (or depth) will be as delineated on the Bartholomew County Flood Insurance Rate Map, and for each SFHA delineated as "Zone A," the regulatory flood elevation shall be according to the best data available as provided by IDNR. (Ord. No. 3025, §1; Prior Code, §35-335; Ord. No. 28, 1995, §3, 6-20-95)

### **Section 17.62.050 Permitted Uses.**

All development, except as outlined below, shall be prohibited within flood hazard areas as established in Section 17.62.020 (Flood Hazard Areas Described). Any construction that does not meet the standards set forth by Section 17.62.080 (Protecting Buildings) shall be prohibited also. (Ord. No. 31, §3, 11-17-98)

A. Floodway and Zone A. The following uses shall be permitted by right, provided they are permitted by the underlying zone district. If any structure is proposed to be erected, any excavation opened, or any material deposited, a permit for construction in a floodway must be obtained from IDNR. (Ord. No. 28, 1995, §3, 6-20-95)

1. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards and general farming.
2. Forestry, wildlife areas and nature preserves.
3. Parks and recreational uses, such as golf courses, driving ranges and play areas.
4. Water management use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, flood walls, weirs, and irrigation facilities.
5. Transportation facilities, such as streets, bridges, roadways, fords, pipe lines, railroads and utility transmission facilities.
6. Water-related uses such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities. (Ord. No. 28, 1995, §3, 6-20-95)

B. Any proposed addition to an existing use, for which a permit from IDNR for construction in the floodway has been obtained, may be permitted in the floodway by the Technical Review Committee (17.62.110). The Technical Review Committee shall meet within 30 days of a complete application being filed. Notice shall be provided in accordance with the Columbus Board of Zoning Appeals Rules of Procedure. Any decision by the Technical Review Committee may be appealed to the Columbus Board of Zoning Appeals. In making its decision, the Technical Review Committee shall consider the following:

1. Whether the proposal is in compliance with the Comprehensive Plan.
2. The hazard to the proposed addition created by locating it in the floodway.
3. The potential damage to personal property belonging to private individuals other than the property or building owner(s).
4. The increased hazard the proposed addition may cause to other structures and properties.
5. The potential risk to stranded individuals and rescue workers.
6. Whether the site is subject to more frequent flooding than the 100-year flood.
7. Whether the proposed addition, with respect to the river, meets the definition of "shadow addition."

The Technical Review Committee may impose stricter conditions than those outlined in the permit for construction in a floodway issued by IDNR.

C. Any new open structure or any open addition to an existing use, for which a permit from IDNR for construction in the floodway has been obtained may be permitted in the floodway by administrative approval by the Director of Planning. All residential additions not requiring permits from IDNR may also be approved by the

## COLUMBUS ZONING ORDINANCE

Director of Planning. All decisions shall be made by the Director within 10 days of a complete application being filed. No notice shall be provided. Any decision by the Planning Director may be appealed to the Columbus Board of Zoning Appeals. In making a decision, the Director shall consider the following:

1. Whether the proposal is in compliance with the Comprehensive Plan.
2. The hazard to the proposed addition created by locating it in the floodway.
3. The increased hazard the proposed addition may cause to other structures and properties.
4. The potential risk to stranded individuals and rescue workers.
5. Whether the site is subject to more frequent flooding than the 100-year flood.
6. Whether the proposed addition, with respect to the river, meets the definition of "shadow addition."

The Director may impose stricter conditions than those outlined in the permit for construction in a floodway issued by IDNR. (Ord. No. 28, 1995, §3, 6-20-95)

D. Floodway Fringe and 500-Year Flood. The following uses shall be permitted by right when the uses are permitted by the underlying zone district:

All facilities, structures, uses and buildings consistent with other provisions of this Title such as businesses, medical facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, manufactured homes, utility buildings, amusement facilities, residential buildings, and civic or fraternal facilities, may be constructed in this flood hazard area, provided that the flood protection grade for all buildings shall be at least two (2) feet above the regulatory flood profile. Floodproofed nonresidential buildings may also be constructed in this district; provided, that the plans and specifications for all necessary structural facilities and modifications are certified by a professional engineer or registered architect licensed to practice in the State of Indiana. Also, on-site waste disposal systems may be permitted only when in accordance with the policies of the Bartholomew County Health Department. Water management and transportation facilities may also be permitted. (Ord. No. 3025, §1, Prior Code, §35-336; Ord. No. 28, 1995, §3, 6-20-95)

E. The Technical Review Committee is authorized to allow new construction in an SFHA if IDNR has issued a 100-year floodway permit or 100-year or 500-year floodway fringe letter of recommendation for such construction and if there are unusual circumstances related to the property, including but not limited to the existence of fill placed before the effective date of the NFIP ( July 19, 1982), or the existence of adequate flood control devices. It is the intent of this ordinance that this authority be used sparingly and only in those circumstances in which the permit is clearly justified. The Technical Review Committee shall meet within 30 days after a complete application is filed. Any decision by the Technical Review Committee may be appealed to the Columbus Board of Zoning Appeals. In making its decision, the Technical Review Committee shall consider the following:

1. Whether the proposal is in compliance with the Comprehensive Plan.
2. The hazard to the proposed addition created by locating it in the floodway.
3. The potential damage to personal property belonging to private individuals other than the property or building owner(s).
4. The increased hazard the proposed addition may cause to other structures and properties.
5. The potential risk to stranded individuals and rescue workers.
6. Whether the site is subject to more frequent flooding than the 100-year flood.
7. Whether the proposed development, with respect to the river, alters the drainage pattern. Drainage plans approved by the Bartholomew County Drainage Board shall be submitted to the Technical Review Committee.
8. Whether there are other options for locating the structure.

The committee may require any or all of the following measures as conditions of approval of new construction permitted under this section:

1. Retention or detention of stormwater runoff to minimize the increase in flood flows due to watershed urbanization.
2. Erosion and sedimentation control during construction projects to reduce siltation and the resulting loss of channel carrying capacity.
3. Additional fill to reduce the flood danger.
4. The necessity for placing the structure in the requested location.
5. The applicant shall illustrate the necessity of this particular use in the SFHA. (Ord. No. 56, §3, 11-4-97)

## COLUMBUS ZONING ORDINANCE

F. Zone A. Once IDNR has made a determination of the limits of the floodway and floodway fringe, development may be permitted in accordance with this Section.

### **Section 17.62.060 Improvement Location Permit.**

No person, firm, corporation, or governmental body not exempted by state law shall commence any "development" in the SFHA without first obtaining an Improvement Location Permit from the Department of Technical Code Enforcement. The Department shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this ordinance.

A. The application for an Improvement Location Permit shall be accompanied by the following:

1. A description of the proposed development.
2. Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams and flood hazard boundaries as determined by FEMA on the current Flood Insurance Rate Map. (Ord. No. 31, §3, 11-17-98)
3. A legal description of the property site.
4. A site development plan showing existing and proposed structure locations and existing and proposed land grades.
5. Elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).

B. Upon receipt of an application for an Improvement Location Permit, the staff shall determine if the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.

1. If the site is an identified floodway the staff shall require the applicant to forward the application, along with all pertinent plans and specifications, to IDNR and apply for a permit for construction in a floodway.

Under the provisions of IC 13-2-22 a permit from IDNR is required prior to any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the building.

No action shall be taken by the staff until a permit has been issued by IDNR granting approval for construction in the floodway. Once a permit has been issued by IDNR, the staff may issue the local Improvement Location Permit, provided the provisions contained in Sections 17.62.070 (Preventing Increased Damages) and 17.62.090 (Protecting Buildings) of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by IDNR.

2. If the site is located in an identified floodway fringe, then the staff may issue the local Improvement Location Permit provided the provisions contained in Section 17.62.070 (Preventing Increased Damages) and 17.62.090 (Protecting Buildings) of this ordinance have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.

3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the staff shall require the applicant to forward the application, along with all pertinent plans and specifications, to IDNR for review and comment.

No action shall be taken by the staff until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from IDNR.

Once the staff has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from IDNR and the provisions contained in Sections 17.62.070 (Preventing Increased Damages) and 17.62.080 (Protecting Buildings) of this ordinance have been met. (Ord. No. 3025, §1; Prior Code, §35-338; Ord. No. 28, 1995, §3, 6-20-95)

4. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator

## COLUMBUS ZONING ORDINANCE

shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe, and 100-year elevation of the site.

Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 7 and 8 of this ordinance have been met. (Ord. No. 31, §3, 11-17-98)

### **Section 17.62.070 Preventing Increased Damages.**

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

A. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, or engineering analysis as provided in Section 17.62.060b.4, the following standards shall apply:

1. No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and

2. For all projects involving channel modifications or fill (including levees) the City shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data. (Ord. No. 31, §3, 11-17-98)

B. Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:

1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.

C. Public Health Standards in all SFHAs

1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a storage tank or flood proofed building constructed according to the requirements of Section 17.62.080 (Protecting Buildings) of this ordinance.

2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted provided all manholes or other above ground openings located below the FPG are watertight.

### **Section 17.62.080 Protecting Buildings.**

In addition to the damage prevention requirements of Section 17.62.070, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

A. This building protection requirement applies to the following situations:

1. construction or placement of any new building having a floor area greater than 400 sq. ft. (Ord. No. 28, 1995, §3, 6-20-95; Ord. No. 31, §3, 11-17-98)

2. structural alterations made to

a. an existing (previously unaltered) building the cost of which equals or exceeds 40% of the value of the pre-altered building (excluding the value of the land);

b. any previously altered building. (Ord. No. 31, §3, 11-17-98)

3. reconstruction or repairs made to a damaged building that are valued at or more than 40% of the market value of the building, to be determined by a certified real estate appraiser licensed by the State of Indiana, (excluding the value of the land) before damage occurred. This shall be at the applicant's expense. (Ord. No. 31, §3, 11-17-98)

4. installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

5. installing a travel trailer or recreational vehicle on a site for more than 180 days. (Ord. No. 31, §3, 11-17-98)

B. This building protection requirement may be met by one of the following methods. The staff shall maintain a record of compliance with these building protection standards as required in Section 17.62.030 (Duties of the Staff) of this ordinance. (Ord. No. 28, 1995, §3, 6-20-95)

## COLUMBUS ZONING ORDINANCE

1. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:

- a. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
- b. The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
- c. The fill shall be protected against erosion and scour during flooding by vegetative cover, rip rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- e. The lowest floor (see definition of "lowest floor" in Section 17.02.020 (Definitions)) shall be at or above the FPG.

2. A residential or nonresidential building may be elevated in accordance with the following:

- a. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
  - i. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total net area of not less than one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade. (Ord. No. 28, 1995, §3, 6-20-95)
  - ii. Any enclosure below the elevated floor is used for storage of vehicles and building access. (Ord. No. 31, §3, 11-17-98)
- b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris. (Ord. No. 31, §3, 11-17-98)
- c. All areas below the FPG shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

3. Manufactured homes and travel trailers (also called recreational vehicles) to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

- a. For manufactured homes in any of the following locations:
  - i. outside a manufactured home park or subdivision;
  - ii. in a new manufactured home park or subdivision;
  - iii. in an expansion to an existing manufactured home park or subdivision; or
  - iv. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood. (Ord. No. 28, 1995, §3, 6-20-95)

The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

b. For manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood, the following applies:

The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Ord. No. 28, 1995, §3, 6-20-95)

4. Recreational vehicles placed on a site shall either:

- a. be on the site for less than 180 consecutive days;
- b. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- c. meet the requirements for "manufactured homes" in Subsection 3 of this Section.

## COLUMBUS ZONING ORDINANCE

5. A non-residential building may be flood proofed to the FPG (in lieu of elevating) if done in accordance with the following:

a. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The Building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

b. Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

### **Section 17.62.090 Other Development Requirements.**

A. The Plan Commission or its designated authority shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. The Commission or its designee shall require appropriate changes and modifications in order to assure that: (Ord. No. 28, 1995, §3, 6-20-95)

1. it is consistent with the need to minimize flood damages;
2. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
3. adequate drainage is provided so as to reduce exposure to flood hazards;
4. on-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination of them during the occurrence of the regulatory flood.

B. Developers shall record the 100-year flood elevation on all subdivision plats in accordance with the Columbus Subdivision Control Ordinance. All subdivision plats must show the 100-year floodplain boundary and the 500-year floodplain boundary and contain on the owners certificate a statement restricting construction of basements within the noted flood hazard areas.. (Ord. No. 28, 1995, §3, 6-20-95; Ord. No. 52, §III, 12-19-95; Ord. No. 31, §3, 11-17-98)

C. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FBMF or FIRM develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities. (Ord. No. 28, 1995, §3, 6-20-95)

### **Section 17.62.100 Variances.**

A. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance, provided the applicant demonstrates that:

1. There exists a good and sufficient cause for the requested variance;
2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant.
3. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

B. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance, subject to the following standards and conditions:

1. No variance or exception for a residential use within a floodway subject to Section 17.62.070 (Preventing Increased Damages) A or B may be granted.
2. Any variance or exception granted in a floodway subject to Section 17.62.070 (Preventing Increased Damages) A or B will require a permit from IDNR. (Ord. No. 28, 1995, §3, 6-20-95)
3. Variances or exceptions to the Building Protection Standards of Section 17.62.080 in a floodway fringe are generally limited to a lot size of one-half acre or less, and generally contiguous to and surrounded by lots with existing structures constructed below the flood protection grade. As the lot size increases, the needed technical justification for the variance also increases. (Ord. No. 3062, §1, 1-4-82; Prior Code, §35-339; (Ord. No. 31, §3, 11-17-98; Ord. No. 31, §3, 11-17-98)

## COLUMBUS ZONING ORDINANCE

4. A variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.

5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.

6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

C. A Technical Review Committee is established to provide technical information that the Board of Zoning Appeals may require in consideration of a request for a variance from the requirements of the floodway or floodway fringe. The Technical Review Committee shall consist of the Columbus City Engineer and two (2) persons of suitable competence, to be appointed on an as needed basis, by the chairman of the Board of Zoning Appeals. The Technical Review Committee shall analyze the variance request and make a recommendation when asked by planning staff, and said recommendation shall be considered by the Board of Zoning Appeals in deciding the variance request. The Technical Review Committee may also permit those activities outlined in Section 17.62.050. The staff will notify the Chairman of the Board of Zoning Appeals, in writing, prior to any meetings of the Technical Review Committee. (Ord. No. 20, §3, 4-2-91, Ord. No. 39, §3, 8-24-93; Ord. No. 28, 1995, §3, 6-20-95)

### **Section 17.62.110 Disclaimer of Liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur in rare occasions. Therefore, this ordinance does not create any liability on the part of the City, IDNR or the State of Indiana for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder. (Ord. No. 28, 1995, §3, 6-20-95)

### **Section 17.62.120 Violations.**

Failure to obtain proper permits in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Columbus. (Ord. No. 28, 1995, §3, 6-20-95)

A. A separate offense shall be deemed to occur for each day the violation continues to exist.

B. The staff shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended. (Ord. No. 28, 1995, §3, 6-20-95)

C. Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

### **Section 17.62.130 Abrogation and Greater Restrictions.**

This ordinance repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence.

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0.<sup>1</sup>I.C., 36-7-4-601, addresses Planned Unit Developments.

2.IC, 36-9-30-1 et seq., address solid waste disposal.

3.I.C., 36-7-4-900, et seq., address Board of Zoning Appeals.

4.I.C., 36-7-4-918.3 et seq., address variances.